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RESOLUTIONS



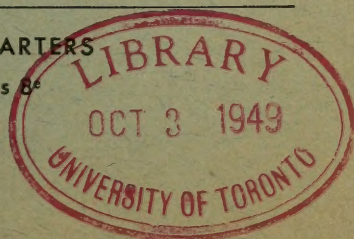
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RESOLUTIONS

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TWELFTH CONGRESS

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INTERNATIONAL CHAMBER OF COMMERCE

QUEBEC - 13th—17th JUNE 1949

INTERNATIONAL CHAMBER OF COMMERCE

International Headquarters

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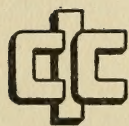


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A Busy Man's Guide

to the

Quebec Congress Resolutions

by Richard BARTON

Director of Technical Services of the I.C.C.

EVERY two years, leaders of trade, industry and finance abandon the daily round of their business routine and come together at a Congress of the International Chamber of Commerce to scrutinize the economic ills of the time and try to reach agreement on a common diagnosis and cure. The sum-total of their thinking is compressed into a single volume entitled "Resolutions".

In June 1949 twenty-five such "Resolutions" were adopted unanimously, with a few reservations on specific points, by the five hundred business delegates assembled at the I.C.C.'s Quebec Congress. These resolutions cover an immense field, ranging from the broad issues of economic policy to the details of transportation methods and commercial law and practice. They are not easy reading. Some are highly technical, couched in the more or less hermetic language of the specialist. All are the result of long months of discussion and consultation among the member countries of the I.C.C.; and it is seldom that a sober, internationally agreed statement that has gone through the mill of polyglot committee work can compete in freshness and in sharpness of contour with the inspired improvisation of an individual or more compact group.

But it is essential that they be read and carefully digested, not only by the United Nations and by the governments and parliaments to which most of them are primarily addressed, but also by the businessman himself and his representative organizations. For, as we said of the Montreux Congress resolutions, they are neither more nor less than a compendium of what he and his fellow businessmen all over the world are thinking on the economic issues of the day. Their effectiveness depends on the support and understanding they receive from the business community. They are not pious hopes or vows to be broken the day after they are made. They are "resolutions" in a more decisive sense—spring-boards for action by business itself as well as by parliaments and governments.

This digest of the more outstanding Quebec resolutions is therefore written primarily with an eye to what each resolution means in terms of

action. It is intended as a handy-guide for the busy man who wants to know in a concise form what the I.C.C. is urging him or his government to do. The why and the wherefore will only be sketched in as a background. The summary is in no way a substitute for the resolutions themselves, which alone bear the seal of the I.C.C.'s authority.

One general remark before passing on to the resolutions. Surprise has been expressed in certain quarters that an assembly of businessmen meeting in June 1949 made no pronouncement on the immediately topical subject of the "business recession" and its consequences in terms of policy. There are two main reasons for this. First, there was no need for a direct statement, since the whole emphasis of the Congress on consumer needs and practically every "policy" statement it made implied the recognition, not necessarily of a state of "recession", still less of "depression", but of the turn of the tide away from the seller's to the buyer's market and of the urgent need for business as well as governments to adjust their policies to the new conditions. Secondly, the I.C.C. had already made a substantial statement on this topic at its Montreux Congress in June 1947 and there was little it could add at the 1949 juncture. The Montreux statement is in fact so apposite to-day that it may well be repeated here in summarized form as a preface and background to the policy statements of Quebec :

Not every set-back or temporary recession is a depression. You cannot have growth and expansion without from time to time the painful process of cleaning up maladjustments. If governments and business panic over a recession, they turn it into a depression : governments by restrictive and isolationist policies, business by slashing its coat hastily to fit an imaginary shrinkage of cloth.

Economic stability and security must not be confused with immobility.

Stability should be sought through policies of expansion and not of restriction.

Government action alone cannot achieve stability and at the same time preserve freedom and growth. This can only be done by the harmonious working together of every section of society : government, labour, agriculture, industry, trade and finance.

No nation working alone can stabilize its own economy and no nation can insulate itself from depression by restrictive trade policies, except by lowering standards of living, sacrificing freedom and accepting economic stagnation.

It is only by international cooperation, based on whole-hearted recognition of the fact that the welfare of one country depends on the welfare of all, that healthy expansion can be combined with stability and social security.

There must be a multilateral system of world trade in which goods, capital and men can move and services be exchanged with the greatest possible freedom from country to country.

Finally, the individual, whatever he may be, must have ample scope and incentive, to take a responsible part in the sum-total of the economic process.

Summary of Quebec Resolutions (*)

The Quebec Congress Resolutions may conveniently be classified under three broad headings : immediate short-term issues, longer-term policy issues, and more specialized technical problems.

I. The Short-Term Issue of European Recovery

All other issues were overshadowed at the time of the Quebec Congress, and are still overshadowed to-day, by the problem of the future of European recovery under the "Marshall Plan". Logically, therefore, the three resolutions—The Future of European Recovery (No. 4), Europe's Finances (No. 5), and Germany's Position in European Trade (No. 6)—coupled with a number of the more technical resolutions devoted to improvements in European transportation (Nos. 11, 16 and 17), fall into first place in any analysis of the conclusions of the Quebec Congress.

The questions to which the first two of these resolutions seek to supply an answer may be put in very simple terms. What more can and should the E.R.P. countries do in cooperation with the United States than they are already doing ? What adjustments should all parties make to meet the shift from the seller's to the buyer's market ? At the time the resolutions were drafted and studied, there were only distant rumblings to be heard of a fresh onslaught of the "dollar crisis". They are therefore couched in perhaps more optimistic terms than if they had been written a month later. But the picture they paint is fundamentally the same. On the one side, an immense revival in production reaching and sometimes surpassing pre-war standards, great progress towards monetary and financial stability and the checking of inflation ; on the other side, a slowing-down of overseas exports and intra-European trade and little decisive progress towards the goal of economic unification in Western Europe. Something had to be done and quickly to break the vicious circle of trade stagnation.

The key-note of both resolutions is in fact extreme urgency. Both point to the opportunities at hand and urge that they be grasped now, this year, while Marshall Aid is there to cushion the painful process of adjustment. Resolution No. 4 ends on a grave note of warning. Consider well, it says, the imminence and dangers of 1953 and act before it is too late. (Is 1953 with us already before its time ?).

The resolutions have a further point in common : their insistence on freedom and the need for loosening controls. How, they seem to ask,

(*) Unless enclosed in inverted commas, the passages in italics are summaries of and not quotations from the resolutions.

can Europe hope to take its rightful place in a buyer's market except on the basis of healthy competition and a freely working price-cost mechanism ?

Both resolutions should be read in full. Their wording has been carefully sifted and balanced to express the maximum consensus of world business opinion. They should, moreover, be read against the background of the reports accompanying them in Brochure 140, submitted by the British, French, and Swedish National Committees and by the I.C.C.'s United States Council. Any attempt to summarize this formidable mass of material must inevitably be an over-simplification, giving undue emphasis to certain factors and leaving others equally important in the shade. The following summary should be read with that in mind.

The Future of European Recovery (Resolution No. 4)

The E.R.P. countries should :

1. *Provide this year more impressive evidence than hitherto available of their sincere intention to achieve the economic unification of Europe in a foreseeable future ;*
2. *Whatever temporary measures of dollar economy may be necessary in the near future, ensure that these short-term defensive measures do not burgeon into permanent trading policies ;*
3. *Seek the solution of their dollar problem in the expansionist direction of maximizing exports rather than by the negative method of cutting imports ;*
4. *Create conditions favourable to a revival of private capital movements ;*
5. *Face as soon as possible the problem of establishing realistic rates of exchange, a number of European currencies being overvalued ;*
6. *Review all quantitative restrictions, discriminations and exchange control with a view to removing immediately those that have outlasted their justification ;*
7. *Continue the work of checking inflation and achieving financial stabilization, not only by balancing budgets but also by reducing direct and indirect administrative expenditure ;*
8. *Relax as much as possible controls and restrictions on private initiative and enterprise, which are not only administratively expensive but lessen dangerously the real productivity of human effort and lay their dead hand on enterprise which now more than ever needs freedom to expand, produce and trade ;*
9. *Relieve industry of the present excessive weight of public charges which is destroying incentives to produce and trade ;*
10. *Do not let the inevitable statistical garb in which policies and plans for the future have to be clothed take charge and pre-determine Europe's investments, production and trade in a pre-conceived and rigid mould.*

On the other side, the United States should :

- 1. Along with other creditor countries, intensify their efforts to lower tariff and other barriers to incoming imports from Europe ;*
- 2. Relax the excessive rigidity of allocation of Marshall Aid by commodities, which was justified in the first two years, but might with advantage be modified in the present changed conditions.*

Europe's Finances (Resolution No. 5)

Inevitably there is some overlap between this resolution and the resolution on The Future of European Recovery. Broadly speaking they are both dealing with the same subject. But the angle of approach is different, and the further recommendations made complete and strengthen rather than simply repeat the program of action outlined above :

- 1. Budgets that are still in disequilibrium must be balanced at a level consistent with the economic strength of each country ;*
- 2. A committee of experienced and independent men of high public standing should be set up in each country to scrutinize the level of government expenditure and advise the government on ways and means of reducing that expenditure ;*
- 3. Direct physical controls should be replaced rapidly—a big advance should be made in this direction before the end of the year—by general financial or fiscal controls (including the use of appropriate changes in the interest rate) ;*
- 4. The central banks should be restored to a position of independence, giving them freedom from political interference in their management, analogous to that accorded to the administration of justice ;*
- 5. The acuteness of the dollar shortage could be relieved in many countries by a modification of exchange rates combined with appropriate domestic policies in the budgetary and credit fields (these reforms to be carried out within the framework of a free "market economy" which alone can secure a better balance between costs and prices) ;*

Here the resolution goes on to point out that a solution of the "dollar shortage" problem pre-supposes the adjustment within each European country of expenditure under all headings (consumption or investment, government or private) to available domestic resources (as supplemented by foreign assistance). "No country can extricate itself from the dollar shortage until it has limited its total expenditure to its total resources of domestic origin".

- 6. The counter-part of Marshall Aid and amounts received in the form of foreign loans and credits should be earmarked for certain definite purposes, and primarily for capital purposes such as cover for productive*

investment, redemption of debt, and generally in such a way as to enable each country to reconstitute, if necessary, its monetary reserves ;

7. The policy of classifying goods moving in international trade as essentials or non-essentials should be changed ;

8. There should be an immediate thorough investigation of the problem of the price of gold.

The resolution ends with a clarion-call for greater freedom in trade :

"The important thing now is to take advantage of the good prospects for industrial and agricultural production and the comparatively stable price conditions which seem at last to have been reached in order to make a rapid and decisive move towards greater freedom of trade and convertibility of currencies.

"More trade means bigger earnings ; and these earnings will not be forthcoming if the European countries hamper trade by quantitative restrictions and exchange control.

"More trade means keener competition, which is a safeguard against excessive price margins and a stimulus to rationalization.

"Less exchange control and fewer import quotas mean greater freedom for the system of costs and prices, which alone can indicate what is economic to produce for export.

"Freer trade also means reduced costs.

"Finally, freer trade is the only course consistent with European co-operation."

(READ ALSO BROCHURE 140)

Germany's Positions in European Trade (Resolution No. 6)

This resolution does little more than apply to the specific case of Germany's trade the broader recommendations contained in the previous resolutions. It rightly treats Germany's problem as one aspect of the whole European recovery problem. It begins by urging the vital necessity, in the interests of European as well as German recovery, of an intensification of Germany's trade with Eastern Europe and of trade on a two-way basis with Western Europe. As regards trade with Western Europe, inter-European cooperation must be intensified and the Germans brought in as partners shouldering their own responsibilities. The distinction between "essentials" and "non-essentials" must be dropped as a criterion for Germany's inter-European trade policy. The resolution goes on to make two specific recommendations :

1. *The system of short-term trade agreements with detailed commodity lists should be replaced by longer-term agreements supplying a more general framework for freer development of trade ;*

2. *Some more flexible system should be found to replace the "dollar clause" for Germany's intra-European payments; it should in fact be recognized that until currencies are generally convertible, Germany cannot hope to obtain dollars or other extra-European currencies from her trade with Western Europe.*

(READ ALSO BROCHURE 139)

Improvements in European Transportation

Transportation is the backbone of economic progress. Economic unification in Europe and the intensification of intra-European trade depend on the smooth and efficient working of an international network of roads, railways, canals and airways. This outline of I.C.C. thinking on European problems would therefore be singularly incomplete without some reference, however brief, to the substantial contribution the I.C.C. has made, in close cooperation with the Economic Commission for Europe of the United Nations, to the re-organization of the European transportation system.

Out of the twenty-five resolutions (counting the sub-divisions separately) devoted to transport and communications, twelve are primarily concerned with Europe. The three recommendations on the Transport of Perishables (No. 11), the four Railway Transport resolutions (No. 16), the five Highway Transport resolutions (No. 17) are all links in the chain of work the I.C.C. and other inter-governmental and private organizations are doing to give Europe the infra-structure she needs to give practical effect to her policies of trade expansion. The picture would be overloaded with detail if all these resolutions were summarized here. Suffice it to say that they should be read and pondered as an integral part of the I.C.C.'s general approach to the vital world problem of European recovery.

(READ ALSO BROCHURE 130)

II. Long-Term Issues of Economic Policy

Although Europe and the future of the "Marshall Plan" inevitably held the centre of the stage at Quebec, the International Chamber of Commerce would belie its name were it to give exclusive attention to any one area of the world. As an organization representing the business men of all five continents, its prime concern is with the development and restoration of a *world* economy in the fullest sense of the term. This is reflected in the conclusions reached by the Quebec Congress, all but three of its "policy" resolutions being devoted to the wider issues faced by trade, industry and finance the world over : expansion and investments and the

related topic of taxation and international tax agreements, the restoration of world primary commodity markets and the removal of administrative obstacles to trade and travel.

Economic Expansion and Foreign Investments (Resolution No. 1)

The resolution on foreign investments is perhaps the most substantial permanent contribution the I.C.C. has been able to make to action and thinking on world economic affairs since the war. For it is not simply an expression of opinion or advice. It constitutes the formal presentation to world opinion of the I.C.C.'s International Code of Fair Treatment for Foreign Investments.

This Code is the direct result of more than four years discussion and consultation within the I.C.C. and has its roots even farther back in the work of League of Nations' experts during the war on the "Conditions of Private Foreign Investment". Two years ago the I.C.C. brought out a resolution and committee report in which it made a thorough analysis of the whole problem of foreign investments. The I.C.C. pointed to the paradox of a world where capital is urgently needed but where insurmountable obstacles are placed in the way of its movement from one country to another. It showed that these obstacles were by no means simply confined to the *natural* obstacles inherent in the economic process of investing abroad, but were largely *political* obstacles created by government policy. The whole purpose of the Code it has now produced is to reduce these *political* obstacles to a minimum by international agreement at least between the more progressively minded governments.

What does the Quebec Resolution say ? It may be put very briefly :

The ample flow of capital from wherever it is available to wherever it is needed is vital to world recovery.

Government loans are no substitute, for they are temporary expedients and in any case not flexible enough to deal with the multiplicity and complexity of economic change and development.

But private international investment will simply not take place if the conditions are unattractive and unless the investor can operate in the requisite climate of confidence and stability. The country needing the capital will then lose the benefit of the projected venture.

Governments cannot perhaps immediately remove the greatest obstacle of all to investments : political insecurity. But, by international agreement, they can sweep away many if not all the other obstacles.

The I.C.C. therefore proposes as a basis for consideration by and negotiation among governments the Code it has worked out to express what it believes to be the minimum conditions in which capital and skill will once more move across frontiers. It further proposes that work should be started under the auspices of the Economic and Social Council of the United Nations on the elaboration of a universal convention for signature and adoption at some more auspicious time.

(READ ALSO BROCHURE 129)

The Special Case of Public Utilities (Resolution No. 2)

Before the war, the I.C.C. had made a close study of one particular aspect of the problem of direct investments : the legal status and treatment of foreign subsidiaries and branches. At the Montreux Congress it brought its earlier conclusions up to date and issued the final version of a Model Bilateral Agreement on this subject for consideration and action by governments (Brochure 120). But this Model Agreement was of too general a character to cover every case. There were special problems, particularly with regard to public utilities, which called for separate treatment. Public utilities, as the Quebec resolution points out, are particularly vulnerable to arbitrary and discriminatory treatment owing to the special relation in which they stand to the State or public authorities.

The Quebec Congress therefore puts forward in Resolution No. 2 a Protocol-Annex completing the I.C.C.'s Model Bilateral Agreement on foreign establishments in general, with three provisions specifically designed to take care of the special case of public utilities.

Taxation and Tax Agreements (Resolution No. 3)

The Quebec Congress resolution entitled "Double Taxation and Administrative Assistance" is closely related to the more general topic of economic expansion and investment. As the resolution states, the taxation of the same income or property by more than one State is a serious obstacle to the healthy growth of international investment and trade. The resolution deals with three questions : the removal of double taxation, inter-governmental agreements for mutual assistance in the assessment and collection of taxes, and the incidence of taxation on economic activity. Under those headings :

1. *The I.C.C. urges rapid action for the removal of double taxation either by the granting of unilateral relief or, failing that, by the conclusion of bilateral agreements based on the two model agreements proposed by the League of Nations ;*

2. *It opposes the conclusion of bilateral agreements for mutual administrative assistance in the assessment and collection of taxes, which are tending to hamper the conclusion of double taxation agreements and, for the reasons stated in the resolution, are in any case both unnecessary and dangerous ;*

3. *The I.C.C. finally warns against taxation that leaves inadequate incentives to tax-payers to engage in business activities ; such taxation "jeopardizes the prosperous expansion of trade and employment, deters the production and distribution of goods, and lowers the revenues of the governments themselves and the living standards of the people".*

(READ ALSO BROCHURE 126)

Invisible Barriers to Trade and Travel (Resolution No. 7)

In this resolution the I.C.C. makes a frontal attack on the red tape paralyzing the growth of international trade and travel. "Cumbersome, costly, obscure and changeable regulations and formalities are often as severe a hindrance as the policies from which they arise... The policies are usually subject to public discussion and control and are enforced by the normal legislative process. The administrative procedure is too frequently devised *ad hoc*, without proper consultation of the interests concerned and goes far beyond the purpose for which it was originally designed. It acts as an *additional* obstacle or an *additional* protection, rather than simply as a mechanism for giving effect to the control or protection established by law". As one of the Quebec delegates pointed out, it is a tragedy of our time that the democratic process of legislation is slow and unwieldy, whilst the acts of administration are unilateral, improvised and tyrannic.

The I.C.C. urges a drastic simplification of all administrative procedure and formalities, surrounding trade and travel.

With that end in view, it proposes that the problem be attacked simultaneously on the national and international planes by the following procedure :

- a) *within each country an independent committee of experts should be set up immediately, consisting of representatives of the import and export trades as well as government officials, to revise existing practice in the light of the past and present recommendations issued by competent international bodies, whether governmental or private ;*
- b) *concurrently, a similarly constituted international committee of experts should start work on the elaboration of internationally standardized rules to be submitted to governments as models for bilateral or limited multilateral agreements or for unilateral action.*

On nine questions of outstanding importance in this field, the I.C.C. submits to governments the conclusions of its own committee of experts (Brochure 130).

(READ ALSO BROCHURES 121, 130)

International Commodity Trading (Resolution No. 8)

The restoration of the big world markets in primary commodities, and particularly of the futures exchanges, is a vital part of the general movement towards greater freedom in international trading. Whatever the difficulties, the final objective should always remain the creation of a free world market and not the perpetuation of a system of governmental constraint.

The free working of a world market presupposes the convertibility of currencies. But even in existing conditions of exchange control the I.C.C. believes that certain concrete steps can even now be taken in the right direction. Among these steps, the I.C.C. draws attention to the following :

- 1. The abandonment of direct buying or selling by the State on commercial account ;*
- 2. the elimination of export restrictions for primary products, and the allocation to exporters of part of the foreign exchange which, in certain countries, they are still obliged to turn over wholly to the State, in a proportion sufficient to encourage them to direct their exports towards hard currency markets ;*
- 3. decontrol of prices for imported or exported primary products ;*
- 4. the re-opening of futures exchanges in importing as well as producing countries.*

The I.C.C. further recommends :

- 1. that, where trade has still to be regulated, the private trader be associated with the carrying out of the regulations ;*
- 2. that within each country an investigation be carried out immediately, in cooperation with the trades concerned, of the possibilities of relaxing or removing controls at present in force.*

On its side, the I.C.C. will make a study of ways and means of restoring a free market in the case of certain primary products not in short supply.

A similar note is struck, perhaps even more strongly, on a closely related topic in the resolution on Shipping and Trade (No. 15 — IV) which calls for "the early return of a free freight market in the best interests of the shipping and commerce of the world and thereby of the consumers".

The resolution goes on to urge :

- 1. the elimination of flag discrimination in agreements between governments for the sale and purchase of commodities on commercial account ;*
- 2. the progressive reduction and ultimate discontinuance of government buying and selling as necessary to the restoration of the full and free use of tonnage of all flags on an open international freight market ;*
- 3. the necessity of using the normal methods of chartering through commercial channels even when cargo is for government account ;*
- 4. the abandonment, when cargo is shipped for private account, of any measure of price or other control which might directly or indirectly result in depriving the merchant of the advantage of the open freight market.*

III. Technical Problems of Economic Progress

Alongside the broader issues of economic policy, there are innumerable technical problems of organization and efficiency in the economic process which are of vital concern to the daily conduct of international business. They offer in fact a particularly fruitful field for the I.C.C. For one thing, administrative departments will listen more readily to and cooperate more whole-heartedly with the business world to bring about improvements which do not involve matters of high government policy. Secondly, an immense amount can be done in many of these technical fields by business acting alone. Within the limits traced by policy and regulations they can freely set about putting their own houses in order : bettering the channels of distribution, reorganizing methods of transportation, and standardizing the techniques of trade and commercial practice.

Important as they are, however, the resolutions on these subjects are too many and too detailed to lend themselves conveniently to the type of summary used in the previous two chapters. All that can be done is to indicate broad underlying trends as a background for a better and fuller understanding of their significance.

Distribution and Advertsing (Resolutions No. 9 and 10)

When all is said and done, the whole economic process is geared to a single end : the satisfaction of consumer needs. Nothing, therefore, can be of greater importance than the efficient and smooth working of the machinery by which the products of industry go from factory to consumer. This machinery is simply that of buying and selling, and the consumer's real wealth ultimately depends on whether, through the various intermediate stages of this buying and selling, he gets the quantity and quality of goods he needs and desires at the minimum cost.

But although, or perhaps because, the process of distribution is a simple and ancient one, and owing to the multiplicity of units involved, it has tended to lag in efficiency of operation behind the rapid advances made in methods of production. The war has in any case had a particularly disruptive effect on the channels of distribution, and its aftermath of controls and regulations has, so to speak, turned the market place into a subsidiary government department. It is this lag and this disruption which the I.C.C.'s International Commission on Distribution is striving to correct. The return of the buyer's market, which is putting the consumer back in his rightful place, has shown up the drastic need of reorganization and adjustment in the distributive trades.

The Quebec resolution puts its finger on the two big obstacles standing in the way of rapid progress in this field : lack of knowledge and lack of freedom. Too little is known by the trader and his staff, not to speak of the general public, of the working of the distributive process, too little of tried methods of reducing costs and increasing sales, too little finally of the real nature and needs of the markets where the goods have to be sold. The resolution therefore sharply emphasizes the vital importance of giving producers, traders, and governments full statistical information, as well of introducing at every stage of the distribution chain the most up-to-date methods of marketing research and sales promotion and providing proper training for distributors and their personnel. None of this need imply an extension of governmental control. On the contrary, the full benefits of modern efficiency can be reaped only in a climate of keen competition and individual initiative. Here we may usefully let a brief summary of the recommendations made in the introduction to resolution No. 9 speak for itself :

1. Lower costs and lower prices can be achieved and consumer needs adequately met only in a fully competitive system which will eliminate uneconomic links in the chain of distribution ;

2. This can only be accomplished by lifting restrictions on free enterprise and abandoning the arbitrary control of prices ;

3. Closer cooperation and understanding must be established between distributors and producers through a sound delimitation of their respective functions ;

4. In a competitive system there is particular need for scientific market research coupled with the methodical study and application of new methods of organizing and selling ;

5. Both the distributor and the consumer must know the facts. Regular and coordinated statistics, enabling countries and trades to be compared one with another, are therefore essential, and private business should cooperate whole-heartedly in supplying the basic data required ;

6. Finally, everything should be done to promote the professional training of business executives and staffs engaged in the distributive trades

Modern advertising is part and parcel of the process of distribution. In the complexity of present day economies, it is an essential means of making the consumer aware of what is available to meet his requirements. But if this function of information combined with sales promotion is not to defeat its own purpose, there must be a self-imposed discipline and a high sense of social responsibility within advertising itself. The I.C.C. has therefore rendered a great service (Resolution No. 10) in drawing up an international code of standards of advertising practice and in assembling data from the various countries on the latest trends of advertising technique throughout the world.

Transport and Communications (Resolutions No. 11 to 18)

The vital problem of transport and communications in this the fifth post-war year is one of reorganization and adjustment to new conditions. The immediate post-war disruption has been overcome and to a great extent the actual material equipment is now there to carry the traffic. But the transport scene has itself changed. The balance is no longer the same between the various transport agencies. Immense strides have for instance been made in the development of air transport as a carrier not only of passengers but of goods, as well as to a lesser but substantial extent in road transport. This closing of the period of reconstruction, coupled with the gradual emergence of deep-seated changes, has created a host of problems for user and carrier alike. The whole issue of transport coordination has to be revised; road transport and the road carriers need a new international and national status; the shipping trades have once again to face the stealthy growth of flag discrimination; in air transport the commercial possibilities of rapid technical progress need to be fully exploited; new techniques of telecommunication, each with its own problem of costs and charges, are beginning to trespass on the traditional domains of the telegraph and telephone and even of the wireless.

On all these points, the I.C.C. has a unique contribution to make. It is the only international body where the users of international transport can make their views and needs known and confront them with the operational problems of the private and public carriers. It is out of this melting-pot and exchange of experience and information that progress can most rapidly be made in building up a world transport system closely welded to the commercial and economic trends of the present and future.

That is the background against which the twenty-five Quebec resolutions on transport and communications have to be assessed. But, even read and digested by those familiar with the problems treated, they do scant justice to the reality of the progress made. Each resolution represents, but only dimly reflects, a series of acts: the gradual assembling of data from a wide variety of sources, negotiation at international conferences and meetings, contact between business and government experts, the final decision to work together in an agreed direction. It is that that counts. And only those who take a direct part in the current technical work of the I.C.C. can fully realize the amount of concrete effort and achievement hidden between the lines of each highly condensed statement.

(READ ALSO BROCHURES 121, 128, 134, 135, 136)

Law and Commercial Practice (Resolutions No. 2 and 19 to 25)

International trade means contracts; contracts mean litigation; and litigation means delay, expense and friction. One of the main endeavours of the I.C.C. since its inception has therefore been on the one hand to

remove as far as possible the sources of international commercial litigation and on the other to provide a simple and cheap method of settling differences when these occur.

The I.C.C. tackles the first task in two different ways. First, it works to reach agreement within the business community itself on any questions that are likely to lead to differences of opinion and litigation. As far as commercial contracts are concerned, it has brought out an agreed statement (Incoterms 1936) of the main obligations of buyer and seller under a number of the more currently used contractual terms (C.I.F., F.O.B., etc.). By referring to these standard definitions in their contracts, importers and exporters can save themselves endless worry and expense. These definitions are now being revised to bring them into line with the latest developments in commercial usage throughout the world. It has done much the same thing in the field of international banking operations, where it has issued Uniform Customs and Practice for Commercial Documentary Credits (Brochure No. 82) as a statement of the liability of banks and their customers in a documentary transaction. These standard rules of the I.C.C. are now widely accepted by banking associations throughout the world. The Quebec Congress has now issued a revised version of one of the most important articles.

Secondly, the I.C.C. helps to eliminate litigation by taking an active part on behalf of business in the elaboration and revision of international governmental agreements dealing with matters of law closely related to the conduct of commerce and industry. Typical of this is its work in the field of industrial property rights, where it has produced a number of important proposals for amending the existing industrial property convention in regard to the treatment of trade marks. It offers similar proposals concerning patents. The Quebec Congress also makes a number of concrete recommendations for solving the knotty problem of the treatment of German trade marks registered abroad.

When, however, disputes arise in connection with an international business transaction—and these can never be entirely avoided—the I.C.C. provides traders and manufacturers with a machinery of conciliation and arbitration, enabling them to settle their differences without recourse to the courts. The Quebec resolutions on this subject draw attention to the value of this procedure for business and to the growing support I.C.C. arbitration is receiving from the national courts in all countries. They urge the importance, for the future of arbitration, of international uniform legislation aimed at simplifying recourse to arbitration and the enforcement of arbitral awards.

These are some of the main topics dealt with in the resolutions concerned with questions of law and commercial practice. They will repay careful reading by all businessmen interested in the establishment of universally accepted standards of law and custom in world economic relations.

(READ ALSO BROCHURES 137, 138)

I

**FOREIGN INVESTMENTS
AND ECONOMIC EXPANSION**

1. International Code of Fair Treatment for Foreign Investments

THROUGHOUT the post-war years, the International Chamber of Commerce has repeatedly emphasized in its resolutions and reports the vital importance to world recovery of an ample flow of capital both from highly industrialized to less developed areas and from one industrialized area to another.

Inter-governmental lending, valuable as it has been and still is in the emergency period following the war, cannot be more than a temporary expedient, and is in any case incapable of coping adequately with the complexity and multiplicity of change and development in the economic world of to-day. Such lending must be supplemented and progressively replaced by substantial movements of private capital.

But if there is to be a revival of private international investment on a scale sufficient to meet present-day needs, there must first be created a climate of confidence and stability encouraging to the potential investor. The private investor is free to invest or not as he pleases. If the conditions surrounding the investment are unattractive, he will simply refrain from putting up his money or from embarking on the projected venture, and the benefits of the development resulting from the investment will be lost to the capital-importing country.

It is also unquestionably true that the buying and selling of securities would play an outstanding role in the restoration of a sound system of international payments, and this requires an adequate protection of foreign investments.

No doubt the greatest enemy of international investment is political insecurity, whether the threat be war or sudden changes in regime. But there are other formidable obstacles. There is exchange control and inconvertibility of currencies. There are policies of expropriation and nationalization. And there is the mass of laws and regulations discriminating against and thereby discouraging the foreign investor. As long as these obstacles exist, however dire a country's need for funds from abroad, they will not be forthcoming.

As a contribution to the removal of these obstacles, in the interests of development and economic progress in all areas of the world, the I.C.C. instructed its Committee on Foreign Investments to work out in collaboration with its Committee on Foreign Establishments an International Code of Fair Treatment for Foreign Investments. This work has now been completed, and the I.C.C. fully endorses the Code prepared by its Committees (Brochure 129). It submits the Code, together with the introductory report of its Committee on Foreign Investments, to the earnest consideration of individual governments and of the Economic and Social Council of the United Nations and its specialized agencies as a basis for immediate action.

Such action might be taken either unilaterally by domestic legislation, or by bilateral agreement, or by multilateral agreements concluded by groups of countries able and willing to adopt the Code's main provisions. At the same time work should be started under the auspices of the Economic and Social Council or of one of its specialized agencies on the gradual elaboration of a universal convention for adoption and signature at some later more auspicious time.

(Original)

2. Fair Treatment for Public Utility Concessions

COUNTRIES which introduce discriminatory and restrictive laws and regulations governing the establishment and operation of foreign enterprises create serious deterrents to the investment of capital and technical skill by nationals of other countries for the purpose of establishing public utilities and developing natural resources.

The International Chamber of Commerce believes that one effective means of removing these obstacles lies in the conclusion of bilateral agreements defining the legal status and treatment of enterprises established by the nationals of one country in the territory of the other. It has therefore published a Model Bilateral Agreement which it has strongly recommended to governments as a basis of negotiations (Brochure 120, adopted by the I.C.C.'s Montreux Congress in June 1947).

This Model Bilateral Agreement, however, would not be sufficient to cover all specific cases. Special problems exist which call for separate treatment. In particular, public utilities involve a special relationship with the State or public authorities which makes them exceptionally vulnerable to arbitrary and discriminatory action.

The marked tendency on the part of certain countries to regulate public utilities without regard for their contractual obligations towards the concession-holders has induced the I.C.C.'s Committee on Foreign Establishments to draw up a Protocol of the Model Bilateral Agreement in the interests of this class of undertaking. This Protocol is given below.

The I.C.C. reiterates the recommendations of its Montreux Congress advocating the adoption of the principles underlying the Model Bilateral Agreement and further urges governments to include the principles indicated in the provisions of this Protocol in their bilateral Agreements.

PROTOCOL-ANNEX TO THE MODEL BILATERAL AGREEMENT

ARTICLE 1

The expression "public utility" shall comprise any establishment, the scope, rights and obligations of which are specifically laid down in a deed of concession, charter, franchise or similar instrument, concluded between that establishment, on the one hand and a local, regional or national body or authority on the other hand.

COMMENTARY

The most important of such public utilities are, without mentioning any others : railways, telephone and telegraph services, trams and the supplying of electricity, gas and water.

ARTICLE 2

Public utility concessions shall be of unlimited duration and subject only to withdrawal by the grantor at intervals of at least 40 years and upon payment of fair compensation.

Unless notice of intended withdrawal has been given at least five years prior to the expiration of this period, such concessions shall in every case automatically be extended for a further period and determinable upon the conditions aforesaid.

COMMENTARY

Sufficient time must be allowed to the concession-holder to enable him to reap the benefits of his efforts and, when the concession has run out, to recover at least the capital he has risked, in order that, in the interests of the users themselves, he may be able to pursue a long-term policy.

Since it is in the interest of the community that public utilities should supply the best services for the lowest charges, the concession-holder must be given an opportunity to spread his amortization costs over a fairly long period.

In some countries, a formula is still applied whereby, on the termination of the concession, all equipment and fixed installations owned by the enterprise shall accrue, without compensation, to the authority that granted the concession. Such a formula, however, is not without its hazards, for the concession-holder may refrain, till the end of his tenure, from improving or increasing his equipment if, at the end of his concession, he is unable to recover at least such portion of his first establishment costs as he has not had time to amortize.

It is held, however, that it is far preferable that a concession granted for an unspecified period should only be withdrawn against reasonable compensation by the grantor. This compensation may vary according to the period during which the concession-holder has been able to enjoy the advantages accruing from his exertions. But it is important that withdrawal of the concession should be impossible until it has been held over a fairly long period of time and that, furthermore, the intervals be sufficiently spaced out to enable the concession-holder to incur, without hesitation, expenses that will show returns only after a number of years. The periods of 40 years are reasonable minima.

The second paragraph of Article 2 provides, well in advance of the expiration of each period of 40 years, for notice of intention to withdraw a concession so that the concession-holder may be adequately protected.

To determine what constitutes fair compensation, account shall be taken of the rules contained in Article 12 of the Model Bilateral Agreement which provides that :

- a) estimation of the amount due for compensation shall be in the hands of a body of independent arbitrators ;*
- 2) that this compensation shall be freely transferable.*

ARTICLE 3

Failing an early settlement, any differences between the concession-holder and the grantor relating to or arising out of the concession shall immediately be referred to arbitration. The concession-holder shall appoint one arbitrator and the grantor another and the two arbitrators so appointed shall appoint an umpire.

Revision of rates and charges to the public shall be among the matters for which arbitration may be sought as aforesaid.

COMMENTARY

It is essential that the parties to the concession should be able to have recourse to arbitration by a body outside the jurisdiction of the granting authority.

It has been deemed desirable that specific mention should be made of the question of regulation of rates and charges made to the public utilities, since their determination follows rules that deviate from those governing the calculation of prices in general.

The authorized scale of rates should be established with sufficient flexibility to insure a reasonable return on capital invested should the cost of labour or other running expenses fluctuate, thus guarding against the danger of indirect expropriation.

When economic conditions are unstable, a blocked scale of rates may be incompatible with the sound conduct of an enterprise. If running expenses increase as a result of depreciation of the currency, for example, amortization should be in keeping with the replacement value of the installations. Conse-

quently, the enterprise should have the right to increase its receipts in proportion to the increase in costs.

In most cases, the deed of concession does as a matter of fact provide for revision of rates. The modification is made according to the variations which may occur in one or more of the following factors : cost of labour, including social security charges ; the price of certain raw materials ; the value in terms of gold of the currency in which receipts are collected. But on the other hand, it is often made, also, because of technical progress the benefit of which must, in all fairness, be passed on to the public.

Such provisions may, however, prove inadequate and the inclusion of an additional clause to the deed of concession may be needed. If the parties to the concession are unable to reach agreement regarding adjustments to the rates laid down in the deed of concession, it is essential that the concession-holder should be able to apply to an authority independent of the one that granted the concession.

(Translation)

3. Double Taxation and Administrative Assistance

FOR many years, the International Chamber of Commerce has been actively engaged in a campaign against the taxation of the same income or property by more than one country. Such double taxation is a serious obstacle to the healthy growth of international investment and trade. There has been some progress in recent years, but there is still an immense field to cover, and it is imperative, as the I.C.C. urged at its Montreux Congress (June 1947) that the movement for the removal of double taxation should spread widely and rapidly. Each government by its own laws could give unilateral relief either by exemption of income derived from or property located within other countries or by a foreign tax credit against its own tax for any foreign taxes imposed on such income or property. Relief could also be provided through the conclusion of bilateral agreements based on the two model conventions drawn up and issued, with the full endorsement of the I.C.C., by the Fiscal Committee of the League of Nations in 1946 (London Draft).

The I.C.C. deplors the tendency to combine negotiations for relief from double taxation with negotiations for reciprocal administrative assistance in the assessment and collection of taxes. The difficulties created by claims for assistance are acting wastefully and unnecessarily as brakes on further progress towards the removal of double taxation. Double taxation and administrative assistance are entirely separate problems and there is no justification for the link artificially created between them. The benefits, for the tax-collector as well as the tax-payer, of relief from double taxation are so great that irrelevant considerations should not be allowed to stand in the way.

The Model Bilateral Convention for the Establishment of Reciprocal Administrative Assistance for the Assessment and Collection of Taxes on Income, Property, Estates and Successions, prepared by the League of Nations, has been studied by the I.C.C.'s Committee on Taxation. Such agreements for administrative assistance are inappropriate to present fiscal conditions ; they are superfluous if administration is efficient ; they are in no way a corollary of agreements for the relief of double taxation ; they raise political and financial problems of great difficulty which are outside the fiscal field and should not be brought into it ; they impede the conclusion of double taxation agreements ; they fail to preserve the rights of tax-payers to contest the demands. The I.C.C. fully endorses the views of its Committee on Taxation which are set out in Brochure 126.

The I.C.C. believes that it would be sufficient simply to include in the double taxation agreement a single paragraph providing for the exchange of information limited to the examination of claims to relief from double taxation submitted by claimants of the other State.

The I.C.C. takes this opportunity of emphasizing the important effect of taxation on production, trade and living standards. It is firmly of the opinion that taxation that leaves inadequate incentives to tax-payers to engage in business and trade activities jeopardizes the prosperous expansion of trade and employment, deters the production and distribution of goods, and lowers the revenues of the governments themselves and the living standards of the people.

(Original)

II

EUROPEAN RECOVERY

4. The Future of European Recovery

THE European Recovery Program is operating within a group of countries with great resources of intelligence, skill, equipment and material.

The strides they have made in recovering from the devastation of the second world war are a proof that these resources and the capacity to use them still endure. The countries participating in the European Recovery Program, together with their widespread associated and dependent territories, constitute an economic area with a vast potential for further increase of production, trade and well-being of its inhabitants. This group of countries and the resources they control are well fitted to make the most effective use of the constructive aid extended by the United States.

The economic difficulties that beset the countries of Europe, aggravated by the present artificial division of the Continent, are symbolized by the disequilibrium in their balances of payments. While this disequilibrium will call for temporary measures of dollar economy over the near future, the International Chamber of Commerce would utter a warning against the danger of these short-term defensive measures burgeoning into permanent trading policies. In due course, Western Europe should be able to reach and maintain solvency without exceptional assistance and within the context of a policy of economic liberalism.

Even in the short-run transitional period, the I.C.C. would like to see the countries of Europe seeking the solution of their dollar problem in the expansionist direction, i.e. by maximizing exports to dollar countries rather than by the negative method of further cutting of imports. The goal of "solvency" by 1953 should not be measured in terms of an exact equilibrium in the current balance of payments between the E.R.P. countries and the Western hemisphere. Allowance should be made for the probability and desirability of resuming and increasing the flow of private capital as a factor in the balancing of payments. This will call for the fair treatment of private capital along the lines already defined by the I.C.C. in its proposed Code (Brochure 129).

One of the handicaps to larger exports by Europe to the United States is the over-valuation of a number of European currencies. When realistic

rates of exchange can be established, the problem of the dollar gap will lose much of its seeming intractability.

The absence of, or the limitations placed upon, the regulating mechanism of prices in many countries also delays the return to a rational structure and to the maximum efficiency of economic activity. Europe's foreign trade would be fostered by restoring the traditional machinery of the market.

Another handicap to the expansion of Europe's exports is the relatively high level of tariffs and the existence of other types of restriction in potential markets outside Europe, particularly among the creditor nations. If Europe is to reach equilibrium, it is essential that efforts made to reduce these obstacles should be intensified.

The growth of Europe's trade is being hampered by quantitative restrictions, discrimination and exchange controls, which, however justified in the emergencies of the war and immediate post-war periods, are in many cases outlasting that justification. All such obstacles to European trade should be immediately reviewed by the Organization for European Economic Cooperation (O.E.E.C.) and the participating governments advised to remove those that are not absolutely necessary. Signs are beginning to accumulate that the recovery of industrial production in Europe is being stifled by inability to export the goods that are being produced. The inevitable discomforts of a removal of quantitative restrictions and other obstacles to European trade will be more readily endured and cushioned while Marshall Aid is still flowing than if the process of dismantling is left to the post-Marshall period.

The work of sound reconstruction in Europe since the end of hostilities has been distorted and undermined by inflation and monetary instability. The I.C.C. agrees with the Interim Report of the O.E.E.C., in which repeated stress is laid on the need to bring inflation under control because "inflation threatens the production and investment programs, it generates a demand for imports that waste resources, it hampers the export drive, it makes impossible that reasonable equilibrium in Western Europe which must precede greater liberalization of intra-European trade and payments".

The I.C.C. would add, however, that in achieving financial stabilization, there is need not only to balance budgets but to reduce direct and indirect government expenditures. One of the ways in which governments should lighten their administrative expenditures is by the greatest possible relaxation of controls and restrictions on private initiative and enterprise. Not only are unnecessary controls administratively expensive, but they lessen dangerously the real productivity of human effort and lay their dead hand on enterprise which now more than ever needs freedom to expand, produce and trade. Moreover, industry cannot make the effort demanded of it unless it is given proper incentives and is relieved of the present excessive weight of public charges.

The Interim Report of the O.E.E.C. describing the progress of the European Recovery Program to-date and measuring it in terms of the goals to be achieved by 1953, makes it abundantly clear that an immense and complex process of production and trade re-adjustment still faces Europe over the next three years. That re-adjustment will in the view

of the I.C.C. be more successfully achieved in a relatively free than in a planned economy. Although the policies by which the participating countries intend to reach solvency by 1952/53 must be clothed in statistical garb, the process must not merge into "super-planning". The targets and statistics must not be allowed to take charge and pre-determine Europe's investments, production and trade in a pre-conceived and rigid mould. Similarly, the procedure according to which Marshall Aid is extended might have to be reconsidered in order to adapt it to the changing situation of Europe. This would mean moving away from the excessive rigidity of allocation by commodities, which was justified in the first two years, but might with advantage be relaxed in the last two years of the Recovery Program.

Marshall Aid was extended to Europe by the United States on the understanding that it would provide the basis for a cooperative effort of self-help among the recipient countries. The I.C.C. is firmly convinced that the impoverishment of Europe is in large measure due to its division. While appreciating that economic unification in Europe cannot be brought about hastily, the I.C.C. is bound to express its disappointment at the comparatively modest advances made along this road since the European Recovery Program was launched. Unless the participating countries provide this year more impressive evidence than is hitherto available of their sincere intention to achieve the economic unification of Europe in a foreseeable future, they will themselves jeopardize the future development of the European Recovery Program. Since the whole of that Program is based on the assumption of U.S. aid continuing until 1952, the importance of this factor can hardly be overstressed. But even more important than its effectiveness in securing continued aid from the United States is the fact that the economic unification of Europe, together with the restoration of a competitive market is a condition of the greatest possible development of the resources of Europe, the growth of its market and the enrichment of its peoples.

One final consideration. This resolution is addressed to issues both vital and urgent. In order to be effective, the measures necessary to attain European recovery must be in force well before the termination of Marshall Plan Aid. Accordingly, the I.C.C. earnestly suggests that the governments, the businessmen and the peoples of the Western world consider well the imminence and the dangers of 1953.

(Original)

5. Europe's Finances

THE year 1949 holds great promise, if the opportunities offered are boldly grasped. Both in agriculture and in industry, production is now rising above pre-war, and with a good or even average harvest in 1949, it should be possible to come closer to a state of economic and financial equilibrium, with greater freedom in the interchange of goods and services as well as the movement of funds. Moreover, commodity prices

are declining in the United States, and their rise has been checked in Europe. This situation, combined with the continuance of Marshall aid, should enable Europe to work out an immediate program of action on firm foundations. The following seven points might well form part of such a program :

1. The first task is to balance those budgets that are still in disequilibrium and to do it at a level which is not beyond the economic strength of the individual countries. When subsidies and rates of taxation are too heavy, private saving is thwarted and investments cannot be matched by genuine current savings. This point has been repeatedly emphasized by the I.C.C. during the last two years and more, and it is therefore gratifying to find that, in the recent Interim Report of the Organization for European Economic Co-operation (O.E.E.C.) on its Long-Term Program, the nineteen O.E.E.C. countries have agreed on the need for balancing budgets and have added the significant statement that "inflation cannot be prevented, in the face of an inappropriate fiscal policy, by mere multiplication of specific controls over particular prices and the use of particular resources". The I.C.C. recommends that each country set up a committee of experienced and independent men of high public standing to scrutinize the level of government expenditure and advise its government on ways and means of reducing that expenditure.

2. A great effort should be made to replace direct physical controls by general financial or fiscal controls and to proceed as far as possible in this direction by the end of the year. Greater reliance should be placed on appropriate changes in interest rates — a course of action which has proved of decisive effect in many countries since the war—especially when combined with other appropriate measures of credit control, as a means of stemming inflation.

3. Another step forward should be to restore the independence of the central banks. This does not mean that where the banks have been nationalized, control should necessarily be handed back to private shareholders. The essential thing is that each central bank, whether nationalized or not, should have a position of independence reinforced by law, giving it freedom from political interference in its management, analogous to that accorded to the administration of justice.

4. In many countries, much could be done to relieve the acuteness of the dollar shortage by the modification of exchange rates, when taken together with appropriate domestic budgetary and credit policies. These reforms will, however, only have lasting effects if they are set within the framework of a free "market economy" which alone can secure a better balance between costs and prices.

For the overcoming of the dollar shortage each European country must, in the first place, adjust its expenditure under all headings (whether for consumption or investment, government or private) to the available resources of domestic origin (as supplemented by foreign assistance). But even if foreign aid is furnished for a country's capital expenditure, such aid cannot go on covering a substantial part of that expenditure indefinitely. Thus, in order to avoid a serious curtailment

of investments, a sufficiency of genuine domestic savings must be available—which will not be possible if the government absorbs too large a proportion of the national resources for its own spending. No country can extricate itself from the dollar shortage before it has limited its total expenditure (for current consumption and investment) to the total of its resources of domestic origin. To bring about such a limitation, financial measures (i.e. the balancing of the budget and a check on undue credit expansion) are necessary; but the task is, of course, greatly facilitated if countries can increase their output of goods and services in agriculture, industry and trade, it being of the utmost importance for some countries to attend to their international trading position. Thus, larger dollar earnings may be gained via direct and triangular trade; and such trade may obviously be facilitated by suitable tariff adjustments in importing countries. Furthermore, a new impetus may be given to activity, not only in Europe but in the world in general, by the development of areas overseas with natural resources still largely untouched. It is through a combination of economic measures in different national and international fields with a suitable financial policy in the individual countries that the dollar shortage can be most readily overcome.

5. The amounts received by each country as counterpart of the Marshall aid and in the form of foreign loans and credits should be earmarked for certain definite purposes. As the financial situation improves, and this is the case in most European countries, it should become unnecessary to set aside any of these funds to meet a current budget deficit. The amounts should be then used strictly for capital purposes, such as cover for productive investment, redemption of debt, and generally in such a way as to enable each country to reconstitute, if necessary, its monetary reserves.

6. The policy of classifying products moving in international trade as essentials or non-essentials should be changed. Where a country extends credits instead of accepting imports of non-essential products, the result is to heighten the danger of inflation by straining the credit position at home whilst affording no relief to demand for goods and services on the home market. Furthermore, appraisal of the economic value of goods and services should not be left to the public authorities; it should result from the free play of market forces.

7. The I.C.C. thinks it essential that a thorough investigation of the problems of the price of gold should be undertaken immediately in the light of past experience and present conditions. The more or less chaotic state of affairs existing on the free and other gold markets is in itself an argument for a renewed examination of the gold problem. But weightier considerations, connected with the general trend of commodity prices, are also involved.

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* * *

These various measures and objectives should be treated as parts of a general program. Reliance must not be placed on the magic effect of one

single idea but on a forward movement along a broad front of national and international action. The important thing now is to take advantage of the good prospects for industrial and agricultural production and the comparatively stable price conditions which seem at last to have been reached, in order to make a rapid and decisive move towards greater freedom of trade and convertibility of currencies. More trade means bigger earnings ; and these earnings will not be forthcoming if the European countries hamper trade by quantitative restrictions and exchange control. More trade means keener competition, which is a safeguard against excessive price margins and a stimulus to rationalization. Less exchange control and fewer import quotas mean greater freedom for the system of costs and prices, which alone can indicate what is economic to produce for export. Freer trade also means reduced costs. It has been calculated in one country that the special export regulations at present in force add 5 % to the cost of production. The first country to free its trade will get a differential advantage likely to enhance the exchange value of its currency. Finally, freer trade is the only course consistent with European cooperation. There is a danger that planning will intensify autarky. The O.E.E.C. has warned against this and the warning should be heeded^f

(Original)

6. Germany's Position in European Trade

AFTER careful consideration of the report submitted to it on Germany's Position in European Trade (Brochure 139), the International Chamber of Commerce fully endorses the conclusions reached in that report concerning Germany's trade with Eastern and Western Europe, the problem of the disequilibrium of the balance of payments with the Western Hemisphere and other areas overseas having already been dealt with in the I.C.C.'s resolutions and reports on The Future of European Recovery and Europe's Finances (resolutions 4 and 5). These conclusions are as follows :

1. Anything that can be done to increase trade with *Eastern Europe* will contribute to the solution of Germany's foreign trade problem and to Europe's recovery generally.

2. Development of Germany's trade on a two-way basis with *Western Europe* on the largest possible scale is of prime importance not only to Germany but to Europe as a whole.

In order to further this reciprocal trade, the I.C.C. urges :

- a) that inter-European cooperation be intensified, and that the Germans be brought in as partners in order that they may shoulder their own responsibilities ;
- b) that those in charge of Germany's foreign trade no longer use the distinction between "essentials" and "non-essentials" as a criterion for Germany's inter-European trade policy ;

- c) that the present system of short-term trade agreements with highly detailed commodity lists be replaced by agreements concluded for several years, which would supply the frame-work within which a freer development of trade could be fostered. For Germany as for the other countries of Europe foreign trade will reach its normal level only within an economic union leading progressively to the formation of a European market ;
- d) that, until general convertibility of currencies can be achieved, the impossibility of obtaining extra-European currencies from trade with the other countries of Western Europe be acknowledged. To replace the "dollar-clause", a more satisfactory system should be found for Germany's intra-European payments, which would allow a greater measure of multilateralism and would facilitate the relaxation of the present rigidity of trade agreements.

(Original)

III

**STEPS TO FREER TRADE
AND MARKETS**

7. Invisible Barriers to Trade and Travel

IF international trade is to function and develop efficiently and smoothly—an objective to which more than fifty countries have subscribed in signing the Havana Charter—it is essential that administrative regulations and formalities should be designed to help rather than hinder the trader and traveller in their efforts to conduct business within the limits set by commercial and monetary policies. Where trade, transport and travel are controlled, obviously there must be some administrative procedure to implement the control, but this procedure should have no other purpose than to prevent what is unauthorized and facilitate what is authorized.

This is rarely the case to-day. The trader, and particularly the importer, is faced with a maze of regulations and formalities which are *in themselves* a deterrent to conducting and still more to expanding his international business. The same applies to the carrier of the goods, and particularly the shipowner, who is frequently subjected to unnecessary delay and expense owing to vexatious consular and customs formalities, overtime, etc., as well as to the businessman and tourist travelling abroad.

The International Chamber of Commerce is not concerned in the present Resolution with the underlying policy. It is concerned with the machinery set up for giving effect to that policy. It believes that the expansion of world trade demands a drastic simplification of administrative procedure and formalities whatever the policy followed.

The importance of this to the future development of world trade and travel cannot be over-emphasized. Cumbersome, costly, obscure and changeable regulations and formalities are often as severe a hindrance as the policies from which they arise. The policies are usually subject to public discussion and control and are enforced by the normal legislative process. The administrative procedure is too frequently devised *ad hoc*, without proper consultation of the interests concerned, and goes far beyond the purpose for which it was originally designed. It acts as an *additional* obstacle or an *additional* protection, rather than simply as a mechanism for giving effect to the control or protection established by law.

The I.C.C. therefore welcomes the provisions of Section E of Chapter IV and other relevant provisions of the Havana Charter as well as the corresponding articles of the General Agreement on Tariffs and Trade. Although there are points of detail on which it dissents from these provisions, it believes that their application, in the spirit as well as in the letter, by all governments would be a useful step forward. They are only a beginning, however. They are too broad and general in their terms to offer a complete solution of the problems dealt with here. In this field it is the detailed application which matters rather than the broad principle. It is for that reason that the I.C.C. sets out below and in the report of its Committee (Brochure 130) specific suggestions for immediate action.

A word of warning might be in place here. There is a tendency to neglect earlier achievements and to start from scratch as though nothing had been done before. This would be particularly regrettable in the field of administrative procedure. There is for instance the 1923 Convention for the Simplification of Customs Formalities which has been signed and ratified by a large number of countries. It is still in force to-day among those countries, and its provisions are in many respects more detailed than those of the Havana Charter. Their application, if made effective in all countries, would be a distinct advance on existing practice. Similarly, throughout the inter-war period practically every aspect of administrative procedure and formalities existing at the time was thoroughly studied by the League of Nations in close consultation with the I.C.C. The conclusions reached are largely valid to-day, and they should be used as a point of departure for further progress rather than be allowed to fall into oblivion.

The I.C.C. has given careful consideration to the practical issue of how best to make rapid progress towards simplification and standardization of formalities and regulations connected with international trade, transport and travel. It believes that in present world conditions there can be little hope of achieving practical results by attempting to draw up universal binding conventions for signature and ratification by all governments. Experience in the inter-war period, as well as more recently, has shown that this method merely results in whittling down the principles adopted at the outset to bring them into line with the lowest common denominator of existing practice.

The I.C.C. therefore suggests that a more practical approach would be to attack the problem simultaneously on the national and international planes by the following procedure :

1. Each government should set up immediately an independent committee of experts, consisting of representatives of business interested in the import and export trades as well as government officials, to revise existing practice in the light of the provisions of the Havana Charter and of the General Agreement on Tariffs and Trade as well as of the 1923 Convention and any other relevant recommendations and reports issued by the League of Nations and other competent international and regional bodies. A progress report should be sent in each year to the Economic and Social Council or to the International Trade Organization.

2. Concurrently, work could be started by the signatory governments of the Havana Charter or of the General Agreement on Tariffs and Trade on the elaboration of internationally standardized rules. A small international committee of independent experts could be set up for that purpose, likewise composed of representatives of business interested in the import and export trades as well as of government officials. The rules drafted by these experts should not be submitted in the form of binding universal conventions, but as models for bilateral or limited multilateral agreements or for unilateral action.

The I.C.C. realizes that any attempt to deal with all possible aspects of administrative procedure at the same time would be doomed to failure. In the report published in Brochure 130, its Committee on Customs Technique has therefore prepared recommendations on nine questions of outstanding importance which it believes governments might usefully select as a starting point for immediate action. The I.C.C. recommends this report to the earnest attention of individual governments and of the United Nations Organizations concerned.

(Original)

8. International Commodity Markets

THE International Chamber of Commerce recognizes that the international primary commodity markets cannot be completely freed as long as a large number of currencies remain inconvertible. It believes, however, that the final objective to be sought should be the return of a free world market and not the perpetuation of a system of governmental constraint.

Existing restrictions on free trading in primary products bring about a reduction in the volume of trade and help to perpetuate the disequilibrium of trade balances and of exchange rates.

Further, the machinery of the free market, which is the culmination of continual progress in communications and economic techniques, can alone ensure a proper equilibrium of prices by the automatic adjustment of world supply and demand.

Lastly, only the futures markets are able to guarantee the producers of agricultural or mining products and the industries employing imported raw materials, as well as the bankers, against the effects of fluctuations in commodity prices. Government intervention can only substitute an apparent but precarious stability for the permanent security afforded by the flexibility of futures transactions.

Whilst fully realizing the primary importance of monetary problems in this field, the I.C.C. notes that certain steps towards freeing the world market in primary products can be taken even under a system of exchange

control. Among these steps, which some countries have already adopted, the I.C.C. would mention :

- the abandonment of direct buying or selling by the State on commercial account ;
- the elimination of export restrictions for primary products, and the allocation to exporters of part of the foreign exchange which, in certain countries, they are still obliged to turn over wholly to the State, in a proportion sufficient to encourage them to direct their exports towards hard currency markets ;
- decontrol of prices for imported or exported primary products ;
- the re-opening of futures exchanges in importing as well as producing countries.

Where the State believes it necessary to maintain a system of regulation of foreign trade, the I.C.C. recommends that private traders should be associated with the carrying out of these regulations so as to preserve for every country the benefit of the experience, contacts, and organization of concerns specialized in the primary commodity trades. It recommends the establishment in each country of official bodies, including representatives of industry and trade, to investigate whether certain controls at present in force could not be removed or relaxed with a view to the restoration of a free international market.

As regards primary products that are not in short supply on the world market, the I.C.C. believes that an immediate study should be made of ways and means of bringing about the effective restoration of a free market. With that end in view, the I.C.C. will select certain products for investigation and will submit practical suggestions to the governments and inter-governmental bodies concerned.

(Translation)

IV

DISTRIBUTION AND ADVERTISING

9. Distribution of Consumer Goods

As a result of the resolutions adopted at the Montreux Congress of the International Chamber of Commerce (June 1947), an International Commission on Distribution was constituted early in 1948 to resume the work that, before the war, had been the responsibility of the International Bureau for the Study of Distribution. At the same time, Coordinating Committees on Distribution were formed under the guidance of the respective National Committees for the purpose of furthering the work undertaken by the Commission on an international plane, by assuming responsibility for inquiries and research work at a national level.

In examining the initial work accomplished by an organisation whose very reconstruction emphasizes the importance of distribution problems, the I.C.C. cannot fail to note the extent of the disruption caused by the war in the field of distribution, particularly in the countries of Continental Europe which were directly involved in hostilities and their consequences, economic as well as political.

It is particularly struck by the almost general expansion which has occurred in the machinery of distribution during the last ten years as a result of the marked increase in the number of outlets and the number of persons employed.

Although the expansion of distribution under normal conditions can be interpreted as a sign of economic health and prosperity, it would appear that in some spheres this increased growth has not been related either to production or to technical developments, and has been, as a result, more of a quantitative than of a qualitative character.

This situation is liable to lead to serious crises and makes the improvement, or at least the serious revision, of distributive methods highly desirable. Work in this field has, however, been considerably hindered during the last ten years, and the studies undertaken and the results achieved have been very uneven in different countries. While taking into account the disruption of the business structure in several countries,

which was caused by the war and political changes, the lack of progress in most countries as compared with others, and in particular with the United States, is very striking.

It is also noticeable that the distributive system has been profoundly affected in many countries by the incidence of the measures taken to control the economy, in other words the various forms of State intervention : allocation of goods by governmental agencies ; fixing of prices and profit margins ; fiscal policy ; or the granting of privileges to certain forms of distributive organisations. These various kinds of interference have had a two-fold effect. First, costs of distribution have been increased by continuing established systems unchanged and subjecting commercial concerns to the expense of employing large, unproductive staffs merely to deal with formalities. Secondly, the normal functioning of commerce has been hampered by regulations which have fostered the growth of black market dealings.



On the basis of these preliminary remarks, which are made to help appreciation of the changed situation, the International Chamber of Commerce considers it its duty to put forward the following recommendations :

1. Distribution can only completely achieve its purpose and restore the priority of the consumer by a return to a fully competitive system which is incompatible with measures designed solely to maintain established forms of commercial enterprise. Such a free enterprise system promotes the elimination of uneconomic intermediaries, will bring lower costs of distribution, and lower prices to the consumer.
2. Furthermore, healthy competition can only be brought about by lifting restrictions on free enterprise, and by abandoning the arbitrary control of prices.

In effect it is only free enterprise and the natural operation of the price system that can stimulate progress in the field of distribution and at the same time bring about the requisite selection of undertakings, subject only to equality before the law and the tax collector.

3. The tendency of the State to take the place of private enterprise and arbitrarily to create new channels of trade can only obstruct the achievement of this purpose. On the other hand the ending of State interference and the cessation of discriminatory measures for or against particular kinds of commercial undertakings must be considered as essential requisites for the effective working of distribution.
4. With the object of strengthening the links which are essential to an understanding of consumers' needs and tastes on the one hand and the increasing possibilities of production on the other, it is desirable to establish a closer co-operation and a greater measure of trust between producers and distributors by a sound delimitation of their respective functions.

5. The competitive system can only enhance the importance of scientific market research coupled, in most cases, with the methodical study and application of new methods of organisation and new methods of selling aimed at reducing costs and improving service to the consumer.

In the interests of small and medium sized undertakings, which have only limited resources, the I.C.C. stresses the need to help them in the field of general organisation by setting up groups for the pooling of experience and for the study of management methods suited to their size ; and in the field of sales promotion, by fostering joint market research and the study of economic trends by trade associations.

6. In the interests of the distributive trades and of the consumer, the I.C.C. once again lays particular stress on the importance of regular and co-ordinated statistics without which it is impossible to ascertain facts, to compare one country with another and one trade with another and consequently to draw conclusions relevant to all countries. To this end, every available means of persuasion should be used to dispel the hostility and lack of co-operation which, in too many countries, is still met with when material of this kind is sought, even when it does not disclose the business of individual concerns and is intended only for the mutual exchange of information.
7. Finally it is essential to encourage and perfect the professional training of business executives and their staffs in order to improve the technical skill and business ethics of all traders, to disseminate the practical knowledge, which is becoming increasingly necessary, and to develop among those engaged in distribution a sense of duty towards their customers.

The I.C.C. welcomes the efforts already made in this direction by the specialised bodies of many countries and calls on the National Committees to support the intensification of these efforts so that distribution may prove equal to the discharge of its increasingly complicated task of improving its services to consumers as a whole.

- A -

Structure and Cost of Distribution (*)

THE present trend in the development of the world economic situation and the upsetting of the equilibrium between supply and demand resulting in the "buyer's market", throw into sharper relief the structure and cost of distribution as an important factor in the cost of living.

In pursuing its work of improving distribution practice, the International Chamber of Commerce reiterates its intention of promoting the

(*) The Netherlands Delegation recorded reservations in respect of this resolution.

development of trade statistics on scientific lines, as expressed, in particular, at its Montreux Congress (June 1947).

However invaluable they may be to a general understanding of economic conditions, it is pointed out that general censuses of production and distribution are of little use to manufacturers and traders because of their particular statistical presentation, which makes them of little value for the detailed study of technical production and distribution problems.

It is the intention of the I.C.C. to foster by every means in its power, the collection, the analysis, the thorough comparative study and the dissemination by publications, of data relating to those fields of activity that are of general practical interest.

Consideration of the surveys undertaken by the National Committees in respect of a pilot article, ready-made men's shirts, shows that the information collected in this particular field, although fragmentary and in spite of the difficulties met with, is of real interest.

As a result, the I.C.C. resolves to pursue the study of the structure and cost of distribution in other fields to be selected in the light of this first experiment and in more favourable circumstances, in order to collect information valid for distribution as a whole.

In furthering this undertaking, the I.C.C. must be able to rely on the co-operation of bodies and individuals who are in a position to help, particularly in compiling the necessary statistical information. In this spirit, it makes an urgent appeal to all trade and professional associations and individual concerns for their whole-hearted co-operation and draws their attention to the fact that it is in their interest to be able to compare their own data with national and international averages.

Bearing in mind the difficulties encountered during the course of the above-mentioned inquiry, and pending the receipt of statistical information of sufficient weight, the I.C.C. must deprecate the uttering of any preconceived statement that the cost of distribution is too high and expresses the opinion that any such statement is, in the present state of knowledge, unfounded.

- B -

Statistics on Distribution

THE International Chamber of Commerce stresses once more the value of statistical information on distribution, because of its interest to producers, traders, consumers and governments alike.

The changes caused by the war in the structure of distribution in many countries and the lack of official censuses during the war-years make the compilation of these statistics all the more urgent.

These should include the following : the number of establishments broken down according to their function, their type of organisation, their legal status ; commodity outlets by areas ; the types of goods sold ; staff employed in distribution ; trends of sales, purchases and stocks, operating costs.

The I.C.C., therefore, recommends that censuses making ample provision for the collection of distribution data or, better still, specific distribution censuses, should be undertaken by government action.

The I.C.C. draws the attention of governments, of the Economic and Social Council of the United Nations, of national and international specialized bodies, to the importance of ensuring international comparability as to timing, definitions and classifications. It congratulates the International Statistical Institute on its work in this field and is ready to support this body by all the means at its disposal. The I.C.C. urges those countries that propose to undertake censuses of distribution to agree among themselves on a uniform procedure and method of classification.

The I.C.C. urges individual traders and their trade associations to support these censuses, the results of which will be of value to them in the development of their businesses.

The I.C.C., moreover, recommends that the statistical information obtained by means of official censuses, should be supplemented for each branch of distribution by statistical data supplied by individual categories of distributive concerns and bearing particularly on the working of such concerns. This would appear to be a field in which statistical research is particularly necessary.

- C -

Marketing Research

MARKETING research is an essential management tool in modern distribution. The International Chamber of Commerce sincerely urges traders and manufacturers of every kind to extend their use of this management tool because it is in itself an excellent means of getting to know the precise characteristics of their markets, the reactions of their customers to their products, their needs and desires and to discover in what direction general consumption can be increased. The I.C.C. draws attention to its publications on the subject of marketing research, which is considered both from the technical point of view and from the wider point of view of improving distribution, concurrently with progress in consumption.

After studying the reports submitted by the National Committees on the development of marketing research, and bearing in mind that the object of marketing research is to serve the consumer by eliminating the wastage of economic resources :

The I.C.C. recommends that all action aimed at developing marketing research on scientific lines and improving its techniques be encouraged

and that all improvements in marketing research techniques be disseminated as widely as possible and by every available means in order to reduce the need for improvisation and diminish business risks.

The I.C.C. emphasizes that marketing research can be conducted by trade and professional associations (especially with the object of helping small enterprises) and by individual firms.

- D -

Training in Principles and Methods of Modern Distribution

THE International Chamber of Commerce has already had occasion to draw the attention of official and private economic circles to the important part that the systematic elementary and advanced training of all those engaged in distribution at various levels (executives, trainee executives, clerks, sales staffs and agents) has to play in improving the standard of distributive efficiency. It has, in previous resolutions, particularly emphasized the importance of the training factor and, in a more general way, the importance of the human element.

The material on this subject which was collected under its auspices for the preparation of the Quebec Congress has convinced the I.C.C. of the need to define again the kind of action which, in this respect, it considers should be undertaken by National Committees, and through them but in a wider field, by trade associations, individual concerns, public services, universities, technical colleges and other interested bodies.

1. In the business education provided by colleges and schools, in different countries, to prepare students for their future careers, a larger place must be given to the teaching of distributive subjects such as marketing research, marketing and merchandising, the lay-out and working of stores and in particular to the practical psychological aspects of leadership in the case of management and of selling in the case of sales personnel, which should in future be complementary to the economic administrative aspects of commercial education.
2. The idea must be propagated that there is a continual need for improvement in personal efficiency at all levels in distributive occupations and that the educational stimulus must begin at the top. It must be remembered that the training and promotion of staffs and executives is the responsibility of managers and that they must allow individuals to increase their knowledge, to develop their personalities and must encourage them to achieve the highest positions in keeping with their individual capacities. In addition it is the responsibility of business executives to confer with the leaders of education, to participate in their programs of teaching better methods of distribution and to obtain greater appreciation for the part distribution plays in the economy.

3. Modern training techniques lay stress on the use of methods based on the study and discussion of case histories, on the use of aural and visual aids, on group study and exchange of experiences and on the use of methods developed by applied psychology, all of which tend to complete in a practical way the education provided by the traditional methods of class-room teaching and bookwork. These methods appear to be particularly suited to the teaching of distribution, the rapid training of new staff and the advanced training of existing staff.
4. Many concerns engaged in distribution have already taken action to train their own staffs by means of courses (that may or may not lead to officially recognized diplomas), study groups, classes, travel, bulletins, house-organs, exhibitions, films, etc. Wherever possible efforts should be made to organise the exchange of experiences between concerns of different countries either through the National Committees or by other means, and where possible to circulate the instructional equipment and material used, between countries.

(Translation)

10. Advertising

- A -

International Code of Standards of Advertising Practice

IN accordance with the recommendations of the Montreux Congress of the I.C.C. (June 1947), the International Code of Standards of Advertising Practice of the International Chamber of Commerce has been revised to bring it into line with the outlook of modern advertising.

Further the "International Council on Advertising Practice of the I.C.C." has been reconstituted, in order to administer the Code and to provide for its observance and operation.

The International Chamber of Commerce :

- Approves the final version of the revised Code ;
- Asks National Committees to give the Code the widest possible distribution and to call on the national advertising organizations of their respective countries to adopt it as an international working instrument and as a statement of the minimum of ethics to be observed in advertising practice.

“ B ”

Advertising Conditions in the Various Countries

As recommended by the Montreux Congress of the I.C.C. (June 1947), the Committee on Advertising of the International Chamber of Commerce has, through the medium of its National Committees, compiled reports on advertising conditions in the various countries.

The I.C.C. asks National Committees to give the widest possible distribution to these reports with the two-fold purpose :

- of supplying international advertisers with information regarding the extent to which advertising is organized in countries where they may be called upon to operate,
- of providing examples for the guidance of countries where advertising is little developed, so that they may establish such organizations as may be necessary for raising the practical efficiency and the ethics of advertising.

(Original)

V

TRANSPORT AND COMMUNICATIONS

11. Transport of Perishable Goods

- A -

Role of the Different Forms of Transport

THE use of air transport, as the Montreux Congress of the International Chamber of Commerce (June 1947) has already noted, has certain inherent advantages for the conveyance of perishable merchandise.

Practical trials have been conducted in this field, the most noteworthy being those held in Italy during the summer of 1947.

It may be hoped that the operation of aircraft better suited to the purpose and the establishment of closer links with terminal transport will lead to the gradual expansion of such transport.

The I.C.C. considers that a comparative study of air transport and of the other means of transport in more general use for the conveyance of perishable goods — cold-storage railway wagons, motor trucks, ships and so on — would be in the best interest of the users, with due regard to the facilities available in each field after the destruction caused by the war.

- B -

Role of Containers

THE International Chamber of Commerce learns with satisfaction that, in accordance with its recommendation, the International Container Bureau (I.C.B.) has now been reorganized on a more comprehensive basis embracing all forms of transport.

Recent technical improvements in this field present substantial advantages for the transport of perishable products.

The I.C.C. therefore resolves to maintain close contact with the I.C.B. so that it may be kept regularly informed of progress made and may make known the needs of transport users with a view to the initiation of further investigations.

The following are the points that should be considered at the present time :

1. the return of empty containers ;
2. the role of the container in shipping ;
3. the role of cold-storage containers.

It urges the Economic Commission for Europe to take the latter point into consideration in its work on cold-storage transport.

- C -

Organization in Europe

THE International Chamber of Commerce notes with interest that a Working Party for the Survey on the Transport of Perishable Foodstuffs in Europe has been established by the Economic Commission for Europe (E.C.E.). It trusts that this Working Party will investigate, among other matters, the organization of facilities to maintain a better regulated flow of these products.

Considerable progress has been achieved regarding the means of transport designed for perishable goods, but the I.C.C. draws the attention of governments to the fact that the obstacles to the free movement of such commodities are no longer simply the result of lack of transport facilities but rather of difficulties arising from import and export licenses and exchange control. It therefore urges governmental authorities to keep in mind this point of view when studying the traffic of perishable goods. The I.C.C. also emphasizes the importance of practical problems such as : fixed installations, new conservation technique, loading and number of package per bundle.

The I.C.C. resolves to maintain close contact with the inter-governmental bodies concerned and especially with the E.C.E., and urges that the transport users be called upon by these bodies to participate in the study of the problems involved.

(Translation)

12. Discriminatory Measures in International Transport Insurance

THE International Chamber of Commerce has always taken a stand against discriminatory measures of a nature to impede the free expansion of international trade. Certain governments, however, have recently had recourse to compulsory measures aimed at monopolising transport insurance in connection with their foreign trade.

Such legislation amounts to extremely dangerous interference in international trade, both as regards the transfer of funds and the relations between buyer and seller: this is the case when a State lays down that an insurance policy shall be contracted in its territory whilst at the same time prohibiting the transfer of funds for the settlement of insurance claims.

The I.C.C. therefore protests against the application of such measures, and this in virtue of Article 53 of the Havana Charter which recognizes that insurance is one of the substantial elements of international trade upon which any restrictive measures may have harmful effects. It urges the authorities to grant full freedom of action as regards transport insurance in view of its international character.

(Translation)

13. Safeguarding Essential Services in International Traffic

RECENT events have demonstrated the disastrous consequences economic disturbances such as strikes can have, from the point of view of the transport user, on essential international traffic in passengers and goods.

The International Chamber of Commerce therefore requests that every effort be made to find means of mitigating these consequences which are so detrimental to the general interest, and urges that studies be initiated by qualified national authorities, in cooperation with the I.C.C., to determine in what manner essential services could be maintained with the help of all interests involved, for the protection of international transport in the event of such emergencies.

(Translation)

14. Air Transport

- A -

Air Mail

THE International Chamber of Commerce, considering the extreme importance of air mail for the development of international trade, puts forward the following recommendations :

1. In order to foster and assist the growth of international trade, it would be advantageous to bring into general use immediately the conveyance without surcharge of first class mail in A services (previously known as ordinary services) for distances of less than 2,000 kilometers. This provision should speedily be extended to such services as a whole, without restriction as to distance.

2. It would be desirable for Postal Administrations to lower or eliminate the surcharges for first class mail in B services (previously known as extraordinary services).

3. The surcharges required from the public for the conveyance of first class mail should immediately be simplified and standardized within broadly defined zones, the present diversity and complexity being a source of inconvenience to the user.

4. It would be desirable that reduced rates for second-class mail (printed papers, samples, small packets, commercial papers) be extended to cover all destinations not at present enjoying these advantages. Moreover a general reduction of rates for second-class mail would be advisable, as well as increased facilities for and speed of such transportation.

5. The I.C.C. stresses the great value of the air mail parcel post for manufacturers and businessmen. It recommends that facilities for the transport of parcel post packages should be extended to cover all destinations served by air transport services.

6. Charges to the public for air mail service ought not to be maintained at such levels above the cost of handling such mail by postal administrations, that they make undue profits.

(Translation)

- B -

Convention on the International Recognition of Rights in Aircraft

THE International Chamber of Commerce, in a resolution adopted by its Montreux Congress in June 1947, made a certain number of recommendations relating to the proposed Convention on the International Recognition of Rights in Aircraft under consideration by the International Civil Aviation Organization (I.C.A.O.) at that time.

Consulted by the I.C.A.O. in November 1947 on the Draft Convention approved in September by its Legal Committee, the I.C.C. instructed a Sub-Committee on Air Law to investigate the question. In April 1948 it proposed to the I.C.A.O. certain modifications to the draft Convention under consideration.

Regarding as urgent the ratification of such a Convention, which would simplify the financing of aircraft and thus facilitate the acquisition of new equipment, the I.C.C. is glad to note that :

1. the text of a Convention meeting its views was adopted in Geneva in June 1948 ;
2. the representatives of approximately twenty countries have so far signed this Convention.

It now urges governments and the qualified authorities to ratify this Convention with the least possible delay.

(Translation)

- C -

Air Freight Exchanges

THE International Chamber of Commerce has already declared itself in favour of the establishment of air freight exchanges which, by arranging return loads and organizing comprehensive traffic services, would reduce the unit cost of transportation, permit consequent reduction of rates and would contribute to the expansion of air transport, which has so many advantages for the conveyance of perishable products.

It is gratified to learn that increasingly valuable services are being rendered by the Air Freight Exchanges recently established in Paris and London. It trusts that close contact, with a view to concerted cooperation on the international plane, will be maintained, within the framework of the I.C.C., between the freight exchanges already existing or in process of creation.

(Translation)

- D -

Improvement of Air Transport

AT a time when many governments are imposing severe regulations upon commercial aviation and are contemplating additional regulations, the International Chamber of Commerce desires to emphasize the importance for trade and industry of adequate and reliable air transport facilities, provided at reasonable cost to the user.

The I.C.C. therefore resolves to pursue the inquiry which it has begun, to ensure that these facilities should not only be adequate to meet the regular requirements of the user, but also be sufficiently flexible to meet unusual and extraordinary requirements. It will continue its efforts to make certain that such civil aviation facilities are available and to improve the conditions under which it may develop.

In the I.C.C.'s opinion, steps should be taken to encourage the development of a vigorous civil aviation industry and to remove the barriers to its full utilization. It therefore urges the national authorities in each country :

1. To grant government-operated and monopoly airlines only such preferential treatment as the national interest requires.

2. To manage nationalized airlines in accordance with current commercial practice and in such manner as to show the real results of such management ; and

3. In general to provide the maintenance of competition between all licensed air services, whether State owned or not (public or private), this being the surest safeguard of the rights of the users.

(Original)

- E -

Facilitation of International Air Transport

THE advantages resulting from the speed of air transport are frequently diminished by the slowness of auxiliary transport operations or the inadequacy of ground facilities.

Notable improvements have of late occurred in this respect, due in particular to the efforts of the International Civil Aviation Organization whose work in this field deserves special mention.

It is the belief of the International Chamber of Commerce that this action must be pursued. It calls the attention of the competent autho-

rities to the steadily increasing importance of air cargo and the desirability, therefore, of providing airfields with suitable installations, especially facilities for the storage of perishable products.

The I.C.C. also puts on record its desire to see Annex 9 to the Convention on International Civil Aviation entitled "Facilities of International Civil Aviation" implemented to the greatest possible extent by all countries at the earliest practicable date.

(Translation)

15. Sea Transport

- A -

United Nations Maritime Conference (Geneva, February/March 1948)

THE International Chamber of Commerce — having taken cognizance of the results of the United Nations Maritime Conference held in Geneva, February/March 1948 and of the Convention on the Inter-Governmental Maritime Consultative Organization (I.M.C.O.) then adopted —

1. Notes with satisfaction that the functions of I.M.C.O. are advisory and consultative ;

2. Welcomes the inclusion in the terms of reference of I.M.C.O. of the duty to encourage the removal of discriminatory actions and unnecessary restrictions by governments so as to promote the availability of shipping services to the commerce of the world without discrimination, as a step towards the realisation of its traditional policy ;

3. Notes that the Convention provides for consideration by I.M.C.O. of matters which have hitherto been dealt with by the normal processes of shipping business ;

4. Recalls the views it expressed on this subject at its Montreux Congress (June 1947) and reaffirms its confidence that questions involving commercial operation of shipping can best be settled by the business interests engaged in ocean transportation in consultation with users of shipping services. It therefore trusts that it will be possible to avoid raising these problems at the level of inter-governmental negotiation ;

5. Is of opinion that (in co-operation with the International Chamber of Shipping) it can continue to play a useful role in enunciating broad principles upon which the development of international commerce and

shipping should be based, but repeats that only those engaged in individual trades can determine the conditions necessary to ensure the efficient and economic service by shipping which each trade requires.

- B -

Maritime Trade Barriers (*)

THE International Chamber of Commerce recalls the resolutions adopted on the subject of maritime trade barriers at its Congresses, particularly those held in London (1921), Rome (1923), Stockholm (1927), Amsterdam (1929), Vienna (1933), Montreux (1947) (see Brochure 128), which emphasize the need in the interest of world trade for maintaining the principle of equality of treatment for the vessels of all flags in all overseas trades :

1. It draws attention, particularly in relation to commercial shipments of cargo on overseas routes, whether by government agencies or private traders, to the danger, similar to that arising after the first World War, of a general extension of flag discrimination and governmental restrictions on maritime transportation, if current instances of these evils are not arrested ;

2. It urges governments to secure the prompt removal of all acts of discrimination based on the flag of the vessel.

- C -

Maritime Law

THE International Chamber of Commerce, having received a report on the progress made and projected by the International Maritime Committee (I.M.C.) in the field of unification of maritime law, is ready to support and co-operate with the I.M.C. as the competent body representing expert legal and commercial opinion on questions of maritime law.

- D -

Shipping and Trade

THE International Chamber of Commerce recalls the resolution of its Montreux Congress (June 1947), in favour of the speedy restoration of the normal processes of shipping business.

(*) The Indian Delegation recorded reservations in respect of this resolution.

1. It notes with satisfaction the progressive steps which have since been made towards the attainment of this object and calls for the early return of a free freight market in the best interests of the shipping and commerce of the world, and thereby of consumers.

2. While recognising the need for some degree of government control of commodities so long as these continue in short supply, it urges that agreements between governments for the sale and purchase of commodities on commercial account should not seek to limit their carriage to vessels of particular flags.

3. The I.C.C. calls for the progressive reduction and ultimate discontinuance of government bulk buying and selling as necessary to the restoration of the full and free use of tonnage of all flags on an open international freight market.

4. In the meantime it emphasises the necessity of using the normal methods of chartering through commercial channels even when cargo is for government account in order to ensure the fullest use of commercial practice and experience.

5. The I.C.C. considers it essential to secure from governments that when cargo is shipped for private account, the authorities shall refrain from any measure of price or other control which might directly or indirectly result in depriving the merchant of the advantage of the open freight market.

- E -

Turn-Round of Shipping in Ports

THE International Chamber of Commerce—recalling the resolution of its Montreux Congress (June 1947) urging all interested parties to co-operate in accelerating the turn-round of shipping in ports—

1. notes that some slight sporadic improvement in the position has taken place in the interval but that excessive delays to shipping are still being suffered in many ports of the world ;

2. again calls on all governments, commercial interests and organised labour concerned, to investigate and remove the causes of these delays which increase the cost of living to consumers and impede the restoration and development of world trade.

(Original)

16. Railway Transport

- A -

Goods Nomenclature for International Railway Traffic

WORK in this field was, in the past, carried out concurrently by the International Union of Railways (U.I.C.) and the International Chamber of Commerce.

The U.I.C. has recently decided to consider the extent to which its own nomenclature might be modified in the light of the work done in this sphere by the I.C.C.

In accordance with the policy it has consistently followed to avoid duplicating the work of other international organizations, the I.C.C. is of the opinion that there is no longer any need for it to continue its own investigations in this field, since its finding would probably be identical with those of the U.I.C.

The I.C.C. therefore decides to maintain close contact with the U.I.C. in order that it may be kept informed of the progress of the work and may assist that organization by communicating to it the views of the users whom it represents.

- B -

Revision of the Bern Conventions

THE International Chamber of Commerce and the transport users it represents wish to emphasize the importance they attach to the revision of the Bern Conventions which is at present under consideration.

It learns with satisfaction that the Bern Office has asked for its views on this revision.

The only procedure for cooperation proposed at present to the I.C.C. by the Bern Office consists in the transmission of the I.C.C.'s recommendations to the governmental authorities in each country through the medium of its National Committees.

The I.C.C. believes that the method of direct cooperation as a consultant adopted by the United Nations with regard to the I.C.C., i.e. the Economic and Social Council, the Economic Commission for Europe, the International Trade Organization, the Food and Agriculture Organization,

etc., is more satisfactory because it is more effective, rapid and comprehensive.

It therefore urges the Bern Office to consider the adoption of a similar procedure.

- C -

International Traffic Regulations in Respect of Privately-Owned Trucks

THE International Chamber of Commerce recommends that representatives of the owners, users and constructors of privately-owned trucks and of all the industries connected with this form of transport as well as representatives of the railway administrations hold a meeting under its auspices for the purpose of discussing :

1. The place of privately-owned trucks in international railway traffic and the regulations under which they are operated ;
2. The setting-up of an international office or other permanent liaison body for fostering the international use of privately-owned trucks.

- D -

Functions of European International Railway Organizations

THE transport users, who are represented by the International Chamber of Commerce, must be able to distinguish which, amongst the various international organizations concerned with railway matters, they may be called upon to deal with.

Neither for questions of a governmental nor of a non-governmental character is there an organization concerned with inter-European problems as a whole.

The I.C.C. therefore urges that, in the absence of such an organization, whether governmental or not, and in order to mitigate the resulting drawbacks, the spheres of action of the various existing organizations should, at least, be clearly defined.

(Translation)

17. Highway Transport

- A -

Highway Policy

THE development of international road transport of both passengers and goods is more than ever necessary in the interests of world trade and of a return to normal economic conditions.

Owing to the exceptional circumstances prevailing during the last few years, large calls were made upon this type of transport in international traffic, and road transport not only showed itself equal to the task but also revealed hitherto unsuspected potentialities.

The flexibility and extreme mobility of road transport have proved to be of very great value and have led the official authorities to endeavour, with due regard for geographical considerations, to facilitate road transport both on the legal plane and from the administrative, economic and technical points of view.

The International Chamber of Commerce notes with approval this new trend of thought, which is in accordance with certain of its past recommendations and which it believes should have its place in any general transport policy that gives due consideration to the services each form of transport is best capable of rendering. This approach should, it seems, normally lead to the conclusion of an International Convention on Commercial Road Transport which would give proper weight to the needs of the various interests concerned. It is vital, in particular, that trade and industry, the principal users of the road and of road transport, should be consulted.

The I.C.C. also draws attention to the fact that the growth of international road transport is inconceivable without a corresponding development of the road network which might in some cases even precede the increased technical possibilities of the motor vehicle.

The resulting heavy traffic will demand measures to increase road safety, which, quite apart from its social aspect, is of great economic importance since it enables the labour, the material and the goods carried to be handled economically, thus ensuring substantial savings through a speedier turn-round of vehicles. Permanent international liaison between the national organizations concerned would make a substantial contribution to the solution of this problem which the I.C.C. proposes to investigate in close contact with the official authorities.

- B -

Role of Highway Transport in the European Recovery Program (E.R.P.)

EUROPEAN highway transport organized on a sufficiently broad basis and efficiently utilized would be of great assistance in the European Recovery Program which, to be effective, must include a plan of procurement and distribution that will ensure the expeditious and economical handling, movement and use of all equipment and materials to be provided under the Foreign Assistance Act.

The International Chamber of Commerce, therefore, recommends :

1. that maximum use be made of highway transport in Europe. This presupposes finding means of ending the shortage of automobiles, buses and coaches which most of the countries of Western Europe are experiencing at the present time, by increasing the coefficient of production and by carefully avoiding waste of man-power and of the spare parts rendered indispensable by the advanced age of the vehicles in service ;
2. that measures be taken to reduce and where possible to eliminate discrimination in any shape or form and, in particular, that credits be allocated to the different forms of transport as required in the general interest with due regard to the contribution highway transport can make towards European recovery ;
3. that to this end a careful determination be made in each country of the factors that now impede the progress of highway transport and that appropriate action be taken to eliminate such barriers, particularly shortage of fuel, a point which the I.C.C. emphatically stresses ;
4. that due provision be made for the efficient utilization and maintenance of the vehicles which it has been estimated will be required for the operation of the European Recovery Program ;
5. that the recipients of aid under the European Recovery Program should be given the possibility of utilizing, for the solution of their highway problems, the technical experience of the experts and qualified persons of all countries in which highway transport has already reached a high degree of development ;
6. that the personnel of the Administrations implementing the Program include men experienced in the transport field in general and in the field of highway transport in particular ;
7. that close contact be maintained between these Administrations and private national and international organizations dealing with highway matters, with a view to arriving at a fruitful exchange of experiences in this field.

- C -

Freedom of International Highway Transport

THE International Chamber of Commerce urges :

1. the renewal by the Economic Commission for Europe of the decision to authorize, without any discriminatory measure, unrestricted transit by road for a stated period ;
2. the ratification by each government of these international decisions and their transformation into national decisions ;
3. freedom for transport users, in accordance with the repeated recommendations of the I.C.C., to dispatch their goods by the form of transport best suited to their needs and complete freedom for manufacturers and traders to use their own vehicles for the conveyance of their own products in national or international traffic.

- D -

Regulation of International Road Traffic

THE International Chamber of Commerce has repeatedly urged that motor traffic should be facilitated by the simplification of formalities and greater uniformity in regulations.

It notes with satisfaction the very great effort that has been made by the Economic Commission for Europe and the Transport and Communications Commission of the United Nations to move in the direction traced by certain recommendations put forward by the I.C.C. at its Montreux Congress (June 1947).

At a time when the place which road transport should normally occupy in the international economy is receiving recognition, it may be useful to draw their attention to the obligations this entails.

The organization of the profession of road carrier should be strengthened, in full consciousness of its rights and duties.

In particular, and with due regard for technical differences, the service given should be comparable in quality with that of the other forms of transport, in respect of time-limits for delivery and the liabilities customarily accepted in international trade. In this connection, the system of financial guarantees for customs purposes that has been elaborated with the support of prominent international organizations, appears particularly worthy of note.

With regard to the conventions that are at present in process of elaboration, the I.C.C. recommends :

1. the acceptance by as many countries as possible of the considerable simplification brought about by the international recognition of national documents ;
2. the immediate adoption throughout the widest possible geographical areas of the system of international road signals at present under consideration ;
3. investigation of methods of taxation of motor vehicles operating abroad, keeping in mind the necessity of avoiding, as the I.C.C. has frequently urged, any tendency to discrimination ;
4. rapid adoption of the measures laid down in the draft customs conventions regulating for the whole world questions connected with travellers and tourist traffic ; rapid adoption, if necessary by geographical areas, of the provisions of the draft convention relating to the temporary admission of commercial motor vehicles, as well as of the provisions enabling goods to be cleared through the customs no longer necessarily at the frontier, which involves danger of delay and of deterioration of the goods carried, but within the country close to the point of destination ;
5. the examination on a world-wide scale by the United Nations Conference on Road and Motor Transport to take place in August 1949, with the least possible delay, of the customs questions referred to in the previous paragraph.

- E -

Liaison between International Highway Organizations

AN essential feature of highway transport lies in the fact that it is split up into a large number of widely dispersed small units, and it is to this very feature that it owes its special characteristics of flexibility.

Furthermore, many economic branches (fuel, road and automobile construction, etc.) with which it is closely bound up, possess their own independent organizations.

If, therefore, it is desired to arrive at a national or international road transport organization comparable with those that have been created for the other, less dispersed forms of transport, some way must be found of grouping these scattered elements and close contact must be maintained between the various associations which deal with the road transport questions at the present time.

The I.C.C. has therefore suggested that permanent liaison be established between the various international organizations interested in highway

questions. It is prepared to give its full support to the following decisions reached by the representatives of fourteen organizations of this kind :

1. that the representatives of such organizations should meet at least once a year at periodical conferences to consider jointly their activities and programs of work, their respective secretariats being empowered to exchange reports and documents between these conferences ;
2. that such organizations should exchange, for their mutual information, the substance of any ideas or suggestions to be transmitted to the public authorities ;
3. that ways and means be sought of collecting information which would bring the importance of highway questions to the fore and of disseminating such information as effectively as possible.

The I.C.C. played an active part in the initial liaison meetings and will do everything in its power to give international trade the full benefit of such cooperation.

(Translation)

18. International Telegraph Service

THE International Chamber of Commerce pays tribute to the efforts made by the Telegraph Administrations and operating agencies to overcome the difficulties caused, during the post-war period, by the destruction of equipment and shortage of specialized staff, and is gratified by the improvements achieved in certain sections of international telecommunication.

The users hope to revert at the earliest possible moment to the benefit of the facilities they enjoyed before the war. They trust furthermore that they will also be given the opportunity of taking advantage, in a very large measure, of the remarkable progress made in the technical field of telecommunications.

The I.C.C. notes with satisfaction that according to Article 3 of the Atlantic City Convention the Plenipotentiary Conference has adopted the principle that "the Union shall foster collaboration among its Members and Associate Members with a view to the establishment of rates at levels as low as possible, consistent with an efficient service and taking into account the necessity for maintaining independent financial Administration of Telecommunications on a sound basis", as this is of the greatest interest to the users.

Consequently, the I.C.C., pursuant to the principles it has already laid down, submits the following recommendations :

1. Adoption for the calculation of telegraph rates in all countries, of a firm, stable and universally recognized basis ;

2. Adoption of a standard scale of charges varying according to distance, the world being divided into zones as large as possible ;

3. In accordance with the decisions of the Cairo Conference, admission of urgent telegrams, and maintenance of the double urgent rate, except where special requirements justify the setting up of categories of fast cables at reduced rates ;

4. Abolition of the minimum rate of 5 words for C.D.E. and L.C. telegrams ;

5. Introduction of a system of flat rates making it possible to charge telegrams "per hundred words" instead of "per word", thus enabling letter-telegrams to compete effectively with air mail.

The I.C.C. is aware of certain proposals for the unification of full rate and code rates which have been submitted to the International Telegraph and Telephone Conference which is sitting in Paris at the present time. In view of the abnormal conditions which now obtain, the I.C.C. is opposed to any immediate alteration in the existing structure of the classification of telegrams and to any increase in the minimum number of words allowed under any category of messages.

The I.C.C. welcomes the rapid development of recent telecommunications systems such as the TELEX and TWX and stresses the desirability of the adoption, pursuant to recommendation No. 861 of the International Telegraph Consultative Committee (C.C.I.T.) in Brussels, of a rate applicable to international traffic of not more than 50 % of the telephone rates. Furthermore, the I.C.C. considers it highly important that a linking-up of these various systems should be accomplished as soon as possible.

(Translation)

VI

LAW AND COMMERCIAL PRACTICE

19. Trade Terms

THE existence of marked distinctions in the interpretation of the trade terms (and their abbreviations) most commonly employed in connection with the sale of goods abroad, has long proved an abundant source of difficulty, friction and even protracted litigation. The International Chamber of Commerce therefore resolved very early in its career, to use its best efforts to obtain the greatest possible measure of agreement among merchants as to the rights and obligations of the seller and the buyer respectively under these trade terms and so eventually to secure international uniformity of interpretation.

There were two ways in which the I.C.C. could be of immediate help in this direction. First, it could place at the disposal of merchants a precise statement of the meaning which each country usually attached, in the field of international trade, to the most common trade terms. This was done in the I.C.C. publication "Trade Terms" (Brochure 68). Immediate success attended the appearance of this publication and there is ample evidence that the interest it then aroused has continued unabated till this day. A second and more effective way of tackling the problem was to offer the large body of merchants who at that time had no internationally accepted standard set of rules available, a means of voluntarily and readily adopting in their contracts for the sale of goods abroad uniform definitions of the trade terms in question. The International Rules for the Interpretation of Trade Terms ("Incoterms 1936") were designed to meet this need.

It follows that these two publications necessarily serve different requirements : "Trade Terms" as a work of reference in matters of national practice, and "Incoterms" as a short cut to the standardisation of international practice in the sale of goods overseas.

In view of the great practical value to business of the work so far done in this field, the I.C.C. notes with satisfaction that its Committee on Trade Terms is actively engaged in the revision, in the light of later developments, of both these publications. It authorizes its Council to approve the revised editions after full consultation with National Committees.

In regard to the future revised version of "Incoterms", the I.C.C. calls upon its National Committees to use every means in their power to bring the advantages of "Incoterms" prominently to the notice of all concerned, so that they may be encouraged to exert influence towards the widespread adoption of these uniform definitions in international trade.

(Original)

20. Commercial Documentary Credits

ARTICLE 10 of the International Chamber of Commerce's Uniform Customs and Practice for Commercial Documentary Credits (Brochure 82) was drafted initially as a general statement of the liability of banks and their customers in a documentary transaction.

It is the obligation of an opening bank and of its customer, when receiving documents tendered as being in compliance with a documentary letter of credit, promptly to determine, on the basis of such documents alone, whether or not a claim is to be made that payment was not in accordance with the terms of the credit.

Under existing conditions it is believed that the present wording of article 10 does not sufficiently express this accepted legal, banking and mercantile principle, and the existing and desirable practice should therefore now be clearly stated.

The I.C.C. accordingly resolves that the second sentence of article 10 of Brochure 82 be amended to read as follows :

"In documentary credit operations a bank deals in documents and "not in goods and a bank making a payment or negotiating a draft in "conformity with the terms and conditions of the relevant letter of "credit is entitled to re-imbursement by the opening bank based on "examination of documents alone forthwith in accordance with the "undertaking as set out in its letter of credit.

"Non-re-imbursement should be advised by cable or failing cable "facilities other appropriate expeditious means with reasons therewith, "such advices to be regarded as implying that the relative documents "are held for account of and pending the instructions from the paying "or negotiating bank."

(Original)

21. Compulsory Working of Patents and the System of Compulsory Licensing for Failure to Work

- A -

THE "Actes de La Haye" of 1925, and even more specifically the "Actes de Londres" of 1934, have substantially modified Article 5 of the Paris Union Convention of 1883 by the abolition of revocation pure and simple for non-working within a specified period without legitimate reasons as prescribed by the "Actes de Washington" of 1911.

The International Chamber of Commerce recommends that the Lisbon Conference ratify the unconditional abolition of revocation.

- B -

The system of compulsory licensing for failure to work can only constitute a stage on the road leading to the total suppression of compulsory working.

The International Chamber of Commerce therefore urges the governments of the different countries to take steps, if necessary by means of bilateral agreements, for the complete and unqualified abolition of compulsory working.

(Translation)

22. International Protection of Trade Marks

THE trade mark, a distinctive sign denoting origin and quality has, in the modern economy, become a powerful adjunct to the export trade and as such contributes to the widest possible dissemination of goods throughout the world.

The international character and importance of the trade mark is recognized in international law and has found legal expression in the 1883 Paris Union Convention. It is for that reason that the efforts of the International Chamber of Commerce have constantly been directed towards

securing for the trade mark the protection of the law beyond the frontiers of its country of origin.

The I.C.C. has therefore recently again reviewed, in the light of changing world economic conditions, the international regime at present applied to trade marks. After careful consideration of the conclusions reached by its Commission for the International Protection of Industrial Property (Brochure 138) the I.C.C. submits to the governments concerned and to the Berne International Bureau for the Protection of Industrial Property, the following proposals for the amendments to the Paris Union Convention which, in so far as the treatment of trade marks is concerned, it hopes to see adopted by the Lisbon Conference.

- A -

Basic Registration in the Country of Origin

Insert the following clause under Article 6 of the Union Convention, after the first paragraph :

“Prior registration in the country of origin shall not be a condition for obtaining registration and protection in other Union countries if the trade mark fulfils the requirements of the laws in force in the country in which protection is sought.”

- B -

Use of Trade Marks by Persons Other than the Registered Owners

Replace the present Article 5 C (3) of the Union Convention by the following clause :

“3. When, between legally distinct physical or juridical entities, there shall exist as the result of their relationship or by reason of agreement an effective control of the use of a registered trade mark by these entities, the countries of the Union shall allow the latter to use the same trade mark. In all cases it shall be considered that the owner himself is using the mark.

“In no case shall the simultaneous use by such physical or moral entities justify the refusal or invalidation of the trade mark.”

- C -

Assignment of Trade Marks (*)

Replace the present Article 6 *quater* of the Union Convention by the following clause :

“A trade mark may be assigned, independently of the assignment of
“all or part of the business of the proprietor as regards all or part of
“the goods for which it was registered ; each of the countries of the
“Union shall be able to regulate according to its own domestic law
“the conditions required to prevent the assignment of the trade mark
“from leading the public into error.”

- D -

Translation of Trade Marks

Insert in the Union Convention a new Article 6 *quinquies* worded as follows :

“The countries of the Union shall accept as susceptible of deposit
“and registration in one single act, trade marks and translations thereof,
“these translations being utilized together with or separately from the
“original mark and each shall be protected by itself.”

- E -

Priority Period of Twelve Months

Extend the period of priority under Article 4 of the Union Convention from six to twelve months.

- F -

Trade Marks Registered Dishonestly

Add to paragraph 3 of Article 10 *bis* of the Union Convention dealing with unfair competition, a sub paragraph 3 worded as follows :

“The use or registration by a person of a mark which by reason of
“its originality and uniqueness or of its long and exclusive use by
“another has come to symbolize and identify his entire business or
“commercial activity shall be deemed to be an act of unfair compe-
“tition.”

(Translation)

(*) The German Delegation abstained from voting on this resolution.

23. Revision of National Trade Marks Legislation (*)

BOTH in the national and in the international field it is now generally recognized that trade marks may properly be used by persons other than the registered proprietor under conditions assuring proper control with respect to the standards of the products bearing such trade mark and that trade marks may under adequate safeguards be assigned without goodwill.

It is noted with satisfaction that certain governments have appointed Committees to revise Trade Mark legislation for the purpose particularly of providing for these matters.

The International Chamber of Commerce welcomes the action taken by such governments and hopes, having regard to the urgency of the matter, that the amendments on these lines may be prepared and submitted to their respective legislatures as promptly as possible without waiting for the general revision of the trade mark law.

(Original)

24. Treatment of German Trade Marks Registered Abroad (*)

THE International Chamber of Commerce reaffirms its desire to see a return as soon as possible to normal conditions for the international protection of industrial property and proposes for the consideration of the governments concerned the following recommendations with respect to German-owned trade marks registered abroad :

1. Uniform treatment of German-owned trade marks registered outside Germany appears desirable.
2. It is recommended to restore to their former German owners trade marks owned by them outside Germany and which are not well-known.
3. In the case of such trade marks which are well-known, it is also desirable to restore them to their former German owners subject to due compliance with the conditions laid down by the respective national laws.
4. The application of the provisions of paragraphs 2 and 3 hereof shall

(*) The German Delegation abstained from voting on this resolution.

be without prejudice to the rights of non-German nationals in the said trade marks provided it be established that they are the real owners of the said marks or that they control the companies in whose names the said marks are registered.

5. The recommendations in the preceding paragraphs shall not apply to German trade marks which have already been disposed of and now belong in good faith to third parties.

6. An International Commission should be created for the purpose of providing for such exceptions to the above rules as may be advisable.

7. Applications for registrations of trade marks in the territories of the countries concerned in the name of German nationals and corporations between September 3rd 1939 (1) and December 31st 1946 should be deemed null and void and consequently removed from the Register. In this connection, international registrations by German nationals or corporations should be treated in the same way as the aforementioned national registrations.

(Translation)

25. International Commercial Arbitration

- A -

Commercial Arbitration and the Law Throughout the World

IN order to secure rapid decisions with the least possible expense, traders and manufacturers everywhere seek to entrust the settlement of their differences and disputes to arbitrators chosen by them, whether they are dealing at home or abroad.

Through its Court of Arbitration the International Chamber of Commerce provides business circles with facilities for the settlement of disputes arising out of transactions with foreign countries. The experience which the Court has acquired since its creation more than 25 years ago has shown that an international uniform legislation aimed at simplifying recourse to arbitration would greatly contribute to a wide-spread use of arbitration procedure. As long as the laws governing arbitration vary from one country to another, there will be uncertainty as to the validity of arbitration clauses and the possibility of enforcing arbitral awards in a foreign country. That is why the I.C.C. whilst continually advocating the unification of international law, has published a series of pamphlets describing the legal provisions governing arbitration in various countries.

(1) The I.C.C. guided in this respect by the decisions taken at the Neuchâtel Diplomatic Conference of 8th February 1947, recommends to the consideration of the governments concerned the special circumstances attending Czechoslovakia and suggests that where 3rd. September 1939 is mentioned above, it should be replaced as regards Czechoslovakia by 17th September 1938.

With that end in view, the I.C.C. has just published a new survey of the main rules governing the arbitration agreement, arbitrators, arbitration procedure, the award, its enforcement and means of recourse against the award in 43 countries.

The I.C.C. is convinced that this publication will prove a practical guide to all interested in international commercial arbitration, as long as recourse to arbitration is not facilitated by the unification of national laws.

However, in order to give a clearer picture of the role of arbitration and the way in which it operates in the various countries, the I.C.C. recommends its Commission on International Commercial Arbitration to continue its task by investigating not only national legislation but also arbitration practice which is at times in advance of the law.

- B -

**Arbitration by the International Chamber of Commerce
and National Law**

THE International Chamber of Commerce notes with pleasure the constant approval by law courts of arbitral awards given in the name of its Court of Arbitration in the few cases in which these awards were not freely carried out.

It particularly welcomes the fact that the law courts increasingly give primacy to the Rules of Conciliation and Arbitration of the I.C.C. over the rules of procedure laid down by national law.

This tendency in international legal practice is most encouraging for the development of its arbitration ; the I.C.C. hopes to see this tendency spread to countries which up to now reserve automatic enforcement for such awards as have been given strictly in conformity with the prescriptions of their national law, regardless of any agreement between the parties.

(Translation)

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Brazil

Chairman : Theodoro Q. BARBOSA.

Secretary General : Rodolpho DE MEDEIROS, Avenida Graça Aranha 182, Rio de Janeiro.

Canada

Chairman : James S. DUNCAN.

General Manager : J. G. NELLES, 1411 Crescent Street, Montreal ("Inchcom Montreal"; Tel. Pl. 7882).

China

Chairman : Kwang-Pu CHEN.

Secretary General : c/o Commercial and Savings Bank, 50 Ningpo Road, Shanghai.

Cuba

Chairman : Juan SABATÉS.

Secretary General : Jaime CÁBARROCAS, Amargura 103, Habana.

Czechoslovakia

Chairman : Dr. Ivan PETR.

Secretary General : Kunes PANY, U Obecniho Domu 3, Prague I ("Obkomora Praha" Tel. 60341-6.046).

Denmark

Chairman : Rudolph SCHMIDT.

Secretary General : M. F. RAFFENBERG, Börsen Copenhagen (Tel. Central 5320).

National Commissioner : Aage DESSAU, 38, Rue du Louvre, Paris, I.

Egypt

Chairman : Dr. Hafez AFIFI Pasha.

Secretary General : S. LACKANY Bey, P.O.B. 1296, Cairo.

Finland

Chairman : Carl ENCKELL.

Secretary General : M. E. KOSKIMIES, Fabianinkatu 14, Helsinki.

National Commissioner : Kaarlo BRUSIN, 11, Rue de la Pépinière, Paris, VIII (Tel. Eur. 38-75).

France

Chairman : Edmond GISCARD D'ESTAING.

Director : René ARNAUD, 82, Bd. Malesherbes, Paris, VIII ("Chambincofra Paris"; Tel. Eur. 58-74).

Secretary General : Hugues COLIN DU TERRAIL.

National Commissioner : Alexandre DE LAVERGNE, 36, Rue La Fontaine, Paris XVI (Tel. Pas. 37-99).

French Africa

Chairman : Robert LEMAIGNEN.

Director : René ARNAUD, 82, Bd. Malesherbes, Paris, VIII ("Chambincofra Paris"; Tel. Eur. 58-74).

Secretary General : Georges REV, SOCOPAO, 4, Rue Lord-Byron, Paris, VIII.

National Commissioner : Pierre DESOUCHES, 9, Av. de Breteuil, Paris, VII (Tel. Ség. 35-67).

French Indochina

Chairman : R. M. E. MICHAUX.

Director : René ARNAUD, 82, Bd. Malesherbes, Paris, VIII ("Chambincofra Paris"; Tel. Eur. 58-74).

Secretary General : Jean DALOZ, 11, Rue Rigault-de-Genouilly, Saigon.

Germany

Chairman : Richard MERTON.

Secretary : Ferdinand HAERECHE, Börse. Postfach, Frankfurt a/Main I. ("Incomerc Frankfurt-main" Tel. 40341).

National Commissioner : Dr. Gerhard RIEDBERG, 14, Rue La Trémoille, Paris, VIII.

Greece

Chairman : Apostolos POULOPOULOS.

Secretary General : Christos PANAGOS, Rue Winston Churchill 41, Athens.

National Commissioner : Nicolas FOTOPULO, 38, Rue Scheffer, Paris, XVI.

NATIONAL COMMITTEES OF THE INTERNATIONAL CHAMBER OF COMMERCE

(continued)

Hungary

Chairman : Dr. Ernest CSEJKEV, Szabadsag tér 8-9, Budapest V.

Secretary General : Alexandre GYÖMRÉI.

National Commissioner : Dr. Kálmán BALKANYI, 8, Rue Duguay-Trouin, Paris, VI (Tel. Bab. 17-88).

India

Chairman : K. D. JALAN.

Secretary General : G. L. BANSAL, 28 Ferozshah Road, New Delhi ("Unicomind New Delhi"); Tel. 7623).

Italy

Chairman : On. Dott. Pietro CAMPILLI.

Secretary General : Dott. Bruno ALESSANDRINI, 107 Via Torino, Rome, 5 ("Incomerce Roma"; Tel. 43821 & 42915).

National Commissioner : Pietro STOPPANI, 29, Avenue Pierre 1^{er} de Serbie, Paris, XVI (Tel. Pas. 25-95).

Luxemburg

Chairman : Aloyse MEYER.

Secretary General : Paul WEBER, 8, Av. de l'Ar-senal, Luxemburg.

Mexico

Chairman :

Secretary General : P.O.B., 113 bis, Mexico City.

Netherlands

Chairman : Dr. Rudolf MEES.

Secretary General : Dr. E. D. DE MEESTER, Tournooiveld 2, The Hague ("Chambinconeer The Hague"); Tel. 180442).

National Commissioner : Dr. A. KNAPPET, 109, Bd. Malesherbes, Paris, VIII.

Norway

Chairman : Fredrik BLOM.

Secretary General : Erling NAESS, Börsen, Oslo ("Börsen Oslo"; Tel. 42.38.80).

National Commissioner : S. J. HENRIKSEN, 45, Rue de Courcelles, Paris, XVII (Tel. Car. 01-76).

Peru

Chairman : Fernando WIESE.

Secretary General : Jorge CHAMOT, 426 Virreyna Lima.

Rumania

Chairman : Prof. Tiberiu MOSOIU.

Secretary General : I. N. IONESCO, 10, Str. Poetul Macedonschi, Bucarest.

National Commissioner : Adrian POPOVICI, 72, Av. de la Bourdonnais, Paris, VII.

Sweden

Chairman : Rolf VON HEIDENSTAM.

Secretary General : Baron W. Gordon STIERN-STEDET, Västra Trädgårdsgatan 9, Stockholm ("Handelskammaren Stockholm"; Tel. 23.13.10).

National Commissioner : Harald SjöBERG, 22, Pl. de la Madeleine, Paris, VIII (Tel. Opé. 04-30).

Switzerland

Chairman : Dr. Hans SULZER.

Secretary General : Dr. Pierre Jean POINTET, 17 Börsenstrasse, Zurich ("Incomerc Zurich") Tel. 23.27.07).

Turkey

Chairman : Mithat NEMLI.

Secretary General : Mahmut PEKIN, Bahçe Kapi, 4 Üncü Vakıf Han, Istanbul (Tel. 24.486).

United Kingdom

Chairman : Hon. John S. MACLAY, C.M.G., M.P.

Director : C. G. FREKE, C.I.E., 14 Queen Anne's Gate, London, S.W.1 ("Incomerc London" Tel. Wki. 2043).

NATIONAL COMMITTEES AT PRESENT INACTIVE

Bulgaria, Poland, Portugal, Spain, Venezuela, Yugoslavia.

COUNTRIES WITH ORGANIZATION OR ASSOCIATE MEMBERS

(without National Committee)

Bolivia, Burma, Ceylan, Colombia, Ecuador, Eire, El Savador, Iceland, Irak, Iran, Israel, Lebanon, New Zealand, Philippines, Sudan, Syria, Union of South Africa, Uruguay.